

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. Y-09/12-564  
 )  
Appeal of )

INTRODUCTION

The petitioner appeals a decision by the Department for Children and Families, Economic Services Division, denying her application for assistance under the health programs administered by the State.

The Department considered petitioner's eligibility under the Vermont Health Access Plan (VHAP), the Catamount Health Assistance Program (CHAP), and prescription drug programs administered by the State. The Department denied petitioner's eligibility because she is covered under her spouse's medical insurance plan. The Department does not consider petitioner uninsured because her health insurance covers both doctors and hospitals.<sup>1</sup>

The material facts are not in dispute. Petitioner is employed from September through April; she does not receive

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<sup>1</sup>The Department stopped its inquiry into petitioner's eligibility upon information that petitioner has insurance coverage. Financial eligibility was not determined for any of the programs. Financial eligibility would be based on the combined countable income of both petitioner and her spouse. The maximum allowable monthly income for a household of two is \$1,892 for VHAP and \$3,783 for CHAP.

health care benefits through her employer. Petitioner and her spouse have a civil union. Petitioner is covered by the health insurance plan her spouse has. Because the Federal Government does not recognize civil unions or same sex marriages, the Federal Government does not extend the same treatment of income and deductions to households with civil union partners or same sex spouses when determining federal tax liabilities. According to petitioner, the amount of the health care premium attributable to her was considered income and taxed by the Internal Revenue Service.

Petitioner argues that she should be considered uninsured for the purpose of Vermont's health care programs. She asks whether there is a financial hardship exception. She questions whether the Department's actions are discriminatory.

#### DISCUSSION

Both the VHAP and CHAP programs are Medicaid waiver programs that have allowed Vermont to extend health insurance to adults in certain situations. Both programs waive the Medicaid income and resource limits.

The Vermont Legislature enacted Act 14 during 1995 to extend health care coverage to uninsured low-income Vermonters who are not eligible for Medicaid benefits.

Welfare Assistance Manual (W.A.M.) § 5300. Act 14 established the VHAP program. Adults without minor children may qualify for assistance if their income is 150 percent of the Federal Poverty Level (FPL) based on household size and provided they meet the other eligibility criteria.

The pertinent definition of uninsured is found at 33 V.S.A. § 1973(f) (2) as "an individual who had no private insurance or employer-sponsored coverage that includes both hospital and physician services within 12 months prior to the month of application." See W.A.M. § 5312.

The Legislature expanded health care coverage by adopting Act 191, An Act Relating to Health Care Affordability in 2006. Act 191 created the Catamount Health Assistance Plan (CHAP) to:

provide uninsured Vermont residents financial assistance in purchasing Catamount Health, a defined benefit package of primary, preventive, hospital, acute episodic care, and chronic care, including assistance in preventing and managing chronic conditions.

33 V.S.A. § 1981.

The CHAP program built upon the Vermont Health Access Program (VHAP) to extend medical insurance coverage to certain uninsured adults who did not qualify for Medicaid or VHAP and whose income is less than 300 percent of the FPL.

The term "uninsured" is defined at 33 V.S.A. § 1983(2) as follows:

"Uninsured" means an individual who does not qualify for Medicare, Medicaid, the Vermont health access plan, or Dr. Dynasaur and had no private or employer-sponsored coverage that includes both hospital and physician services within 12 months prior to the month of application, . . .

To effectuate these programs, the Department received a waiver of Medicaid requirements from the federal Department of Health and Human Services through its Center for Medicare and Medicaid Services. The Department's definition of uninsured is approved as part of the waiver.

Both programs carve out exceptions such as losing insurance due to loss of employment, the death of the principal policyholder, domestic violence, divorce or dissolution of a civil union, etc. These exceptions do not apply in petitioner's case. In addition, there are no hardship exceptions written into the legislation or the rules.

The applicable prescription program has a similar rule that an individual be uninsured. W.A.M. § 5620 (VScript).

The Department's definition of "uninsured" is unambiguous. Petitioner does not meet the definition of "uninsured".

The petitioner's complaints are more appropriately directed towards the Federal Government.

ORDER

The Department's decision is affirmed.

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