

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. A-04/14-295  
 )  
Appeal of )

INTRODUCTION

Petitioner appeals the amount of the spend-down determined by the Department for Children and Families ("Department") for her to attain Medicaid eligibility. The following facts are adduced from representations of the parties during several telephone status conferences, the last occurring August 29, 2014, and a summary of the spend-down determination filed by the Department on August 19.<sup>1</sup>

FINDINGS OF FACT

1. Petitioner is disabled, has significant medical needs, and lives at home with her spouse. As part of a semi-annual review of her Medicaid eligibility, petitioner was determined based on household income to have a 6-month spend-down amount of \$10,257.54, for the period of time between May 1, 2014 and October 31, 2014, in order to receive Medicaid coverage during this period.

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<sup>1</sup>Petitioner was represented throughout this process by her spouse. Although there was some delay in the proceedings while the Department compiled the summary of the spend-down determination, petitioner received continuing coverage during the process.

2. Petitioner submitted a list of medical expenses to the Department which potentially qualify to meet the spend-down amount. Of those expenses, the Department recognized \$7,492.52, leaving a remainder of \$2,765.02 to be met over the above period.<sup>2</sup>

3. The Department did not count petitioner's anticipated mileage to medical appointments, on the grounds that these expenses must be incurred before they could be counted. Petitioner has not submitted any mileage costs actually incurred during the spend-down period.

4. The Department did not count two medical bills, totaling \$599.02, needing additional information about the nature and timing of the bills to determine if they can be counted. No additional information has been submitted with respect to these bills.

5. The Department allowed a variety of food items that are consistent with petitioner's documented medical need to avoid "processed foods and any food high in phosphorus," but disallowed food items inconsistent with this need - specifically "Tostitos" snacks, pretzels, and spinach dip,

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<sup>2</sup>It is noted that the Department discovered an error by petitioner in calculating their monthly out-of-pocket costs for medical supplies. Petitioner had claimed a total of \$541.99 per month for these costs, and the Department ultimately recognized \$647.26 per month based on the information submitted.

which were sought by petitioner to be recognized as spend-down expenses.

6. There is no dispute regarding petitioner's household income.

7. Petitioner's spouse states that they cannot afford her medical costs and still meet their other household and living needs.

ORDER

The Department's decision is affirmed.

REASONS

Disabled Medicaid applicants who are otherwise over-income for coverage may "spend down" to meet financial eligibility. See Health Benefits Eligibility and Enrollment § 28.04(c). The rules provide that expenses are generally counted "on the date liability for the expense begins." HBEE § 30.05(h). However, the rules also recognize four categories of "predictable" expenses that may be deducted before such costs are incurred - premiums on health insurance, medically necessary over-the-counter drugs and supplies, ongoing personal care services, and certain services provided to a person residing in a residential care

home. See *Id.* Mileage is not among the costs which may be deducted prior to incurring.

The Department has largely recognized the costs sought by petitioner. With respect to the two medical bills that were not recognized, petitioner has yet to submit adequate documentation of the nature and timing of these costs. The Department appropriately denied recognition of food items that do not fit within the parameters of her medical treatment. Finally, the Department would recognize any eligible mileage costs that have been incurred by petitioner during the spend-down period. The Department appropriately denied recognition of such costs unless and until incurred. See HBEE § 30.05(h).

Therefore, based on the evidence in the record, the Department's spend-down determination is consistent with the applicable rules and must be affirmed.<sup>3</sup> See 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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<sup>3</sup>Petitioner is free to submit additional information regarding medical costs during the time period in question. Petitioner was encouraged to do so by the hearing officer but thus far has declined.