

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. B-03/17-120
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Appeal of)
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INTRODUCTION

Petitioner appeals a decision denying her application for enrollment in a Qualified Health Plan (QHP) through Vermont Health Connect (VHC). The issue is whether petitioner is eligible for enrollment in a QHP for 2017 outside the Annual Open Enrollment Period (AOEP) that closed on January 31, 2017.

The following facts are based on evidence adduced during telephone hearings on April 4 and 14, 2017 and documents submitted by the parties.

FINDINGS OF FACT

1. Petitioner had health insurance through her employer until she became unemployed in October 2016. She has not had health insurance since that time.

2. There is no dispute that petitioner receives \$401.00 per week, or approximately \$1,724.30 per month, in unemployment benefits, and that petitioner is not currently

eligible for Medicaid because her income is in excess of the Medicaid maximum (\$1,387.25).¹

3. Petitioner applied for insurance coverage through VHC on January 31, 2017. Petitioner initially called VHC to inquire about the application process. VHC introduced a transcript of the call into evidence, and petitioner does not dispute that it accurately reflects her conversation with a VHC representative.

4. At the beginning of the call petitioner said she would like to purchase health insurance, and added, "now I know today is the last day to sign up." In response, the VHC representative informed petitioner that she could apply on-line or over the phone and reviewed the information she would need to provide. Petitioner then asked how to apply on-line. The VHC representative gave her the VHC link and explained how to start the application process, and petitioner indicated that she would apply on-line. The VHC representative told her not to hesitate to call back if she had any difficulties, and the call ended. There is no indication that the VHC representative provided petitioner with any misleading information during this call.

¹ Petitioner noted that her unemployment benefits will be ending in the near future.

5. At hearing, petitioner credibly testified to her belief that she had met the deadline for applying during the 2017 AOEP when she started the application process by January 31, 2017.² Petitioner asserted that she should be allowed to enroll after the end of the AOEP because the VHC representative did not tell her that she had to *select* a plan by January 31, 2017 to complete her enrollment in a QHP.

6. A VHC case manager credibly testified that when petitioner had completed her application on-line, a screen titled "My Eligibility" would appear to inform her that she had been approved for a QHP and subsidies, and that on the right side of the screen under the words "Next Steps" she would have been prompted to "complete plan selection."

7. Petitioner does not recall seeing a screen titled "My Eligibility" or being prompted to "complete plan selection" when she completed her application. She explained that when she had finished entering her information on January 31st, she was not sure if the application had been submitted. However, she did not call VHC that day to confirm the status of her application.

² It is noted that VHC may have subsequently contributed to petitioner's misunderstanding by mailing her a Notice of Decision on February 1, 2017 advising that she had been approved for a QHP but that the deadline for selecting a plan was January 31, 2017. However, this notice does not change the result here because it was mailed *after* the 2017 AOEP and it did not mislead petitioner regarding the requirement to select a plan *before* the end of the AOEP.

8. Although petitioner genuinely does not recall seeing a prompt to "complete plan selection," there is no evidence that she did not complete the enrollment process during the 2017 AOEP because of an error on VHC's web site or any other error or inaction by VHC.

9. During a call on February 28, 2017, VHC informed petitioner that she could not enroll in a QHP because she had missed the 2017 AOEP, and petitioner requested a fair hearing.

10. Petitioner does not dispute that she did not select a QHP and complete the enrollment process by January 31, 2017.

ORDER

The decision of Vermont Health Connect is affirmed.

REASONS

The Board's review of VHC decisions is de novo. As petitioner is appealing VHC's denial of her request for a Special Enrollment Period (SEP), she has the burden of proving by a preponderance of evidence that she is eligible to enroll in a QHP for 2017. Fair Hearing Rule 1000.3(0)(4).

As noted in the Findings of Fact, above, there is no dispute that petitioner's income is currently in excess of the maximum allowed for adults applying for Medicaid. Procedures Manual § P-2420(B)(1).

With respect to enrolling in a QHP, as a general matter, an applicant may do so only during an Annual Open Enrollment Period. Health Benefits Eligibility and Enrollment (HBEE) § 71.02(a)(2). The 2017 AOEP started on November 1, 2016 and ended on January 31, 2017. HBEE § 71.02(e). There is no dispute that the petitioner did not select a plan to complete the enrollment process by January 31, 2017. Thus, she may only enroll in a QHP for 2017 if she is eligible for a SEP.

VHC's regulations provide for a SEP to enroll in a QHP outside of the AOEP, but only under certain clearly-defined "triggering events". HBEE § 71.03(d). Those events are limited to losing existing health insurance through circumstances beyond an individual's control, changes in an individual's household composition, "error, misrepresentation, misconduct, or inaction" by the Department, and other specifically defined events that pertain to changes in eligibility factors that occur *after* the AOEP. *Id.*

In this case, there is no evidence that petitioner did not complete the enrollment process because of a misrepresentation by the VHC representative on January 31, 2017, an error on VHC's web site, or any other error or inaction by VHC. Therefore, it cannot be concluded that any event necessary to trigger a SEP pertains to the petitioner's situation.

Based on the foregoing, it must be concluded that VHC's denial of petitioner's request for a SEP to enroll in a QHP is consistent with its regulations, and the Board is bound to affirm. 3 V.S.A. § 3091(d); Fair Hearing Rule No. 1000. 4D.

As noted during the hearing, if petitioner's unemployment benefits end she should promptly reapply for Medicaid, which does not have a limited enrollment period.

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