

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. Y-01/17-16
)
Appeal of)
)
)

INTRODUCTION

Petitioner appeals a decision by Vermont Health Connect (VHC) denying his requests for retroactive Medicaid coverage from June through September of 2016, cancellation of his Qualified Health Plan (QHP) coverage in effect during that time, and a refund of premiums he paid for such coverage. The issue is whether VHC's decision complied with its regulations.

The following facts are adduced from the testimony of petitioner and a VHC case manager during a telephone hearing held on January 23, 2017, and copies of VHC records received by the Human Services Board on January 17, 2017.

FINDINGS OF FACT

1. Petitioner received his health insurance through Medicaid in 2015.

2. Petitioner filed a review application with updated financial information in early 2016. VHC determined that his income (approximately \$2,165 per month) exceeded the maximum of \$1,366.50 allowed for a household of one under Vermont's Medicaid regulations. There is no dispute that petitioner was not eligible for Medicaid in 2016 because of his income.

3. VHC mailed petitioner a Notice of Decision dated March 11, 2016 informing him that his application for Medicaid had been denied, but that he had been approved for enrollment in a QHP along with federal and state subsidies to help pay the premiums for QHP coverage.

4. On March 29, 2016, VHC mailed petitioner a Notice titled "**Closure Notice: Medicaid/Dr. Dynasaur Coverage is Ending**" which informed petitioner that his Medicaid coverage would end on April 30, 2016.

5. On April 21, 2016, VHC mailed petitioner a Notice titled "**Closure Notice: Medicaid/Dr. Dynasaur Coverage is Ending**" which informed petitioner that his Medicaid coverage would end on May 31, 2016.

6. It is not clear from the record why VHC extended the Medicaid closure date to May 31st, but there is no dispute that petitioner received the notices referenced in paragraphs 3, 4 and 5, *supra*, and that he understood VHC intended to close his Medicaid coverage at the end of May.

7. Petitioner called VHC on May 10, 2016 to request enrollment in a Blue Cross Blue Shield (BCBS) QHP. VHC records document that he was approved for a Special Enrollment Period to enroll in a QHP effective June 1, 2016.

8. After initially sending petitioner an invoice with the incorrect premium, VHC sent an invoice in mid-July correctly showing that he owed \$417.57 for three months of coverage, and he timely paid this amount. Petitioner also made a premium payment of \$139.19 in August, thereby paying for coverage through September.

9. BCBS covered claims for prescription expenses incurred by petitioner in September.

10. In early October petitioner reported that he had become eligible for Medicare Parts A and B effective October

1, 2016,¹ so VHC terminated petitioner's QHP coverage effective September 30, 2016.

11. In November and December, the Department for Children and Families mailed petitioner notices informing him that his Medicaid would end on December 31, 2016 because, although VHC had previously notified petitioner that his Medicaid coverage would close at the end of May, it had not been closed in the VHC system.

12. Even though petitioner's Medicaid coverage was continued through December 31st in error, Medicaid covered claims for prescriptions submitted by petitioner's pharmacy in December (after his QHP coverage ended but before his Medicare Part D coverage started in January). Petitioner acknowledged that he benefited from VHC's error.

13. Having learned that his Medicaid coverage remained active in VHC's system through the end of 2016, petitioner called VHC on January 5, 2017 and requested retroactive Medicaid coverage, cancellation of his QHP coverage, and a refund of the premiums he paid for the QHP coverage from June through September of 2016.

¹ Petitioner also attempted to enroll in Medicare Part D (prescription coverage) at that time, but Medicare informed him that his Part D coverage would not start until January 1, 2017.

14. VHC acknowledges errors and delays with processing petitioner's enrollment in a QHP and closing his Medicaid coverage, but asserts that it correctly denied his requests for relief because he had not been financially eligible for Medicaid since at least May 2016 and he had been properly enrolled in QHP coverage from June through September.

ORDER

VHC's decision to deny petitioner's requests for retroactive Medicaid coverage from June through September of 2016, cancellation of his 2016 QHP coverage and a refund of the premiums he paid for that coverage is affirmed.

REASONS

The Board's review of VHC decisions is *de novo*. As petitioner is appealing VHC's denial of his requests for retroactive Medicaid eligibility, cancellation of his QHP and a premium refund, he has the burden of proving by a preponderance of evidence that VHC's rules authorize such relief. Fair Hearing Rule 1000.3(O)(4). Based on the evidence in the Findings of Fact, *supra*, the Board concludes that petitioner has not met his burden.

First, there is no dispute that petitioner's monthly income of \$2,165 exceeded the maximum of \$1,366.50 allowed

for a household of one under Vermont's Medicaid regulations. See Health Benefits Eligibility and Enrollment (HBEE) Rules § 28.03; Medicaid Procedures P-2420(B)(1) (effective 4/1/16). Nor is there a dispute that VHC notified petitioner that his Medicaid coverage would close on May 31, 2016. And although VHC did not enter that closure in its system until December 31st, its omission does not establish Medicaid eligibility for petitioner where the evidence clearly shows that he was not otherwise eligible.

Second, the record shows that VHC notified petitioner that he had been approved for QHP coverage, that he enrolled in a BCBS QHP effective June 1st and understood his premium payments were for coverage starting on that date, and that BCBS covered his claims for prescription expenses in September. Under these circumstances, there is nothing in the regulations that authorizes the retroactive cancellation of petitioner's health insurance. As such, it must be concluded that VHC followed its rules when it denied petitioner's request for cancellation of his 2016 QHP coverage.

The remaining question is whether petitioner is eligible for a refund of the premiums he paid for coverage from June through September of 2016. VHC's regulations limit

situations in which premium refunds may be provided as follows:

Premium payments are generally nonrefundable. . . With respect to QHPs, premiums may be refundable in certain cases, including death, *overpayment* (including retroactive adjustment of APTC), and invoicing errors.

Section 64.00(j) (emphasis added).

As noted above, petitioner received QHP coverage in the months for which he paid premiums in 2016, including BCBS's coverage of claims in September. There are no provisions in the regulations requiring VHC (and/or the insurance carrier) to, in effect, waive the payment of premiums that are otherwise owed for coverage. Thus, as petitioner did not overpay any premiums in 2016, it must be concluded that VHC's denial of his request for a refund is consistent with the above-referenced regulation.

Based on the foregoing, VHC's decision to deny petitioner's request for retroactive Medicaid coverage, cancellation of his QHP coverage and a premium refund must be affirmed. 3 V.S.A. § 3091(d); Fair Hearing Rule 1000.4D.

#