

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. M-08/17-376
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Appeal of)
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INTRODUCTION

Petitioner appeals what was initially a decision by the Department of Vermont Health Access ("Department") effectively terminating the healthcare subsidies applied to his 2017 health insurance coverage purchased through Vermont Health Connect ("VHC"), for failing to verify his income. The following facts are adduced from a hearing held September 27, 2017, status conferences held October 24, 2017 and December 20, 2017, and documents submitted by the Department.

FINDINGS OF FACT

1. Petitioner purchased health insurance through VHC for calendar year 2017. He received subsidies, via an Advanced Premium Tax Credit ("APTC") and Vermont Premium Assistance, to assist with payment of the premium. Petitioner is self-employed, earning income from the rental and management of residential properties.

2. In or around March of 2017, the Department received an alert or "ping" from the federal government that indicated a potential discrepancy in income anticipated by petitioner for 2017, based on an unspecified source of information (which was apparently in the possession of the federal government). While the Department could not identify the source or content of this information here - because VHC is only alerted of a potential discrepancy, not the nature of the underlying information - the discrepant information is typically (based on the Department's representation at hearing) tax data from the previous year or years.

3. Following receipt of this alert, and pursuant to its rules, the Department mailed petitioner a letter requesting that he provide verification of his 2017 income. Petitioner did not immediately respond, and the Department mailed him another request for verification in May of 2017. Both requests for verification advised petitioner that his subsidy for health insurance could be terminated if he failed to respond (by June 30, 2017).

4. Petitioner failed to respond by June 30, 2017 and as a result was notified by letter dated July 5, 2017 that his subsidies would be ending (meaning he would be obligated

to pay his entire premium to maintain his insurance coverage). This appeal followed.

5. Prior to being transmitted to the Board, the appeal was processed internally by VHC through the Department's fair hearings unit. During that process, petitioner indicated that he could provide VHC with an updated "profit and loss" statement, but this would be unreliable to predict his total yearly income. Petitioner and VHC were unable to resolve the appeal, which led to its submission to the Board.

6. At hearing, petitioner indicated that he had experienced a one-time increase in income in 2016 which might have explained the identification of a potential discrepancy with his 2017 income, and that he anticipated back-loaded expenses for his business which would be incurred at the end of the year, and not reflected on a current profit and loss statement.

7. Following the hearing, the hearing officer transmitted a memorandum to the parties regarding avenues of potential resolution of the appeal. The Department subsequently responded that it would consider a resolution with petitioner (that appeared to be consistent with his initial requests) and had tried to contact him to discuss

such, without success or receiving any contact back from petitioner.

8. During the December 20, 2017 status conference, petitioner was requested to indicate whether any issues remained in his appeal, given that he had not availed himself of the opportunity to resolve the appeal as described above, and it was year's end and too late to report a change in income for 2017 (although this would not affect petitioner's opportunity to recover any tax credit owed to him, when filing his taxes for 2017).

9. While agreeing that there were no remaining issues related to his 2017 coverage, petitioner indicated that he was concerned the same issues could reoccur in 2018 and made a general complaint about the verification letter sent by the Department. Although not conceding that this concern makes petitioner's appeal a "live and active" dispute, the Department indicates that it is reviewing its procedures regarding requests for verification in situations such as petitioner's.

ORDER

The Department's decision is affirmed, and petitioner's appeal otherwise dismissed as moot.

REASONS

Review of the Department's determination is de novo. The Department has the burden of proof at hearing if terminating or reducing existing benefits; otherwise the petitioner bears the burden. See Fair Hearing Rule 1000.3.0.4.

In this case, the Department generally followed its rules in requesting verification from petitioner following the identification of a potential discrepancy in his anticipated income for 2017. See Health Benefits Eligibility and Enrollment ("HBEE") Rules §§ 56.04, 56.06 and 57.00(c)(1). The rules include the potential for termination of subsidies for failing to respond to the verification request. See HBEE §§ 56.08(c). While a potential resolution - along the lines requested by petitioner - was pursued by the Department following his appeal to the Board, petitioner did not respond to these efforts; and eventually, it was too late in the year to implement any change for 2017 (if even sought by petitioner).

Petitioner does not dispute the above but remains concerned about identical events occurring in 2018. However, if such occurs, he is free to contact the Department - and is

encouraged to do so immediately - and appeal if he wishes.

Otherwise, his concern is speculative and does not establish any active controversy over which the Board has jurisdiction.

As such, the Department's decision must be affirmed; to the extent petitioner claims any additional grievance(s), his appeal must be dismissed as moot. See 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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