STATE OF VERMONT

HUMAN SERVICES BOARD

In re	)	Fair Hearing No. B-10/17-522
	)	
Appeal of	)	
	)	

INTRODUCTION

Petitioner ostensibly appeals a denial of Medicaid dating back to February of 2016 by the Department of Vermont Health Access ("Department"). The following facts are based upon a merits hearing and documents submitted by both parties, with the record closing May 9, 2018. The sole issue is the Board's jurisdiction over petitioner's appeal.

FINDINGS OF FACT

1. Petitioner submitted a renewal application for Medicaid eligibility in February of 2016. Due to some additional income he had started earning at the time, he was found ineligible for Medicaid. He was found eligible for subsidies for purchasing insurance through Vermont's healthcare exchange (Vermont Health Connect or "VHC"). He enrolled in a plan beginning March 1, 2016, at a net premium cost (after application of subsidies) of $22.12 per month.

2. In connection with this determination, the Department sent petitioner a notice dated February 2, 2016, that he was not eligible for Medicaid and instead eligible for subsidies through VHC as described above. Petitioner did not appeal this decision.

3. On May 3, 2016, the Department determined petitioner eligible for Medicaid (effective May 1, 2016) based on a change in income he reported at that time. Because his Medicaid eligibility restarted, the Department terminated his insurance through the exchange, effective May 31, 2016.

4. Petitioner's insurer sent him a letter dated August 29, 2016, indicating that his exchange insurance had terminated as of May 31, 2016. The letter included an explanation of his appeal rights. Petitioner did not appeal this decision.[1]

5. For the remainder of the year, petitioner was covered by Medicaid.

6. On January 18, 2017, VHC mailed a 1095-A tax form to petitioner, reflecting the months of his enrollment in a Qualified Health Plan through Vermont's healthcare exchange

[1] This is notable to the extent there may have been any issue regarding the termination date of his insurance.

during 2016. On February 17, 2017, VHC mailed petitioner a 1095-B tax form, reflecting the months of his enrollment in Medicaid during 2016. The 1095 forms together reflected full coverage for the year (although it appears that petitioner did not pay his premium for his exchange insurance for the month of May 2016).

7. Petitioner did not contact VHC following receipt (or mailing) of the 1095 forms, nor – in any event -does it appear that the forms were inaccurate.

8. Petitioner contacted VHC in October of 2017 when he apparently became aware of a tax liability related to his 2016 insurance. Among other things, he stated his belief that the Department's denial of Medicaid eligibility beginning in March 2016 was in error, and he had been forced to pay for exchange insurance that he did not need. The nature of petitioner's tax liability is not entirely clear, although he characterizes it as a "tax penalty" (despite the fact that he was covered for every month of the year in 2016).

9. Petitioner indicates that he has been unsuccessful in addressing his tax issue with the IRS and asserts that his issues stem from what he believes was the incorrect denial of Medicaid in February of 2016. He also claims that he

received no notification of any of the above decisions or 1095 forms and related paperwork, although it was all sent to his designated mailing address. Petitioner indicates that he has been out-of-state for much of the time since 2016 for personal or family reasons, which may have caused him to miss certain mailings.

ORDER

Petitioner's appeal is dismissed as beyond the Board's jurisdiction.

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.

This appeal presents the threshold question of the Board's jurisdiction. The applicable rules for appealing a decision related to a Qualified Health Plan ("QHP") through Vermont's healthcare exchange require the appeal to be submitted within 90 days of notice of the decision. *See* Health Benefits Eligibility and Enrollment ("HBEE") Rules § 80.04(c). Likewise, the applicable rules for appealing a

Medicaid decision also require the appeal to be submitted within 90 days of notice of the decision. *See id.*

The two decisions related to either petitioner's Medicaid or QHP in 2016 were transmitted to him, respectively, by notice dated February 2, 2016 and August 16, 2016. While the extent to which these decisions affected petitioner's tax liability is unclear, petitioner did not contact VHC until October of 2017, well beyond any applicable appeal period. As such, the Board lacks jurisdiction over petitioner's appeal, which should be dismissed as untimely. *See* 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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