

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. J-10/19-637  
 )  
Appeal of )  
 )

INTRODUCTION

Petitioners, husband and wife, appeal the decision by the Department of Vermont Health Access (DVHA) terminating their Medicaid eligibility and that they are not eligible for receipt of subsidies to assist with payment of coverage under a Qualified Health Plan (QHP) because petitioner wife's employer offers affordable health coverage. The following facts are adduced from telephone hearings held on October 31, 2019 and January 13, 2020 and documents submitted by the Department.

FINDINGS OF FACT

1. Petitioner wife and two of the family's children were enrolled in Medicaid for Children and Adults (MCA) in 2019. Petitioner husband had been determined disabled by the Social Security Administration and was receiving Supplemental Security Income (SSI); he was also covered by Medicaid. At

some point in 2019, although the date is unclear, petitioner husband returned to work.

2. Petitioner wife filed an application for the family for Medicaid for Children and Adults benefits in May 2019. Several Notices were subsequently issued by the Department, but the information supplied in the Notices was confusing and apparently in error, but it is undisputed that petitioners were notified that their current coverage under MCA would end effective May 31, 2019.

3. On July 11, 2019, petitioner wife called the Department to report an income change. Petitioner wife's income was reported as approximately \$3,400/month and petitioner husband's income was reported as approximately \$750/month. At some point, it was also determined that petitioner wife's employer offered family health coverage as an employment benefit.

4. At hearing, the Department stated that the Notices stated an erroneous reason for the denial of petitioner's MCA application. As a result, between June and October 2019 the Department contacted petitioners to discuss their case. The Department informed petitioners that it had been notified that petitioner husband had become over income for SSI, because part of the wife's income is counted in computing his

eligibility for SSI. The family was also over income for MCA as the MCA income limit for a household of four (4) is \$2,961.30. Finally, the Department researched the insurance offered by the wife's employer and determined that the insurance was "affordable" "employer sponsored insurance" (ESI) under the Health Benefits Eligibility and Enrollment (HBEE) Rules.

5. Therefore, the Department determined that while petitioners were eligible for a Special Enrollment Period (SEP) for enrollment in a Qualified Health Plan (QHP), it could not offer an Advance Premium Tax Credit (APTC) or other subsidies (jointly referred to as subsidies) due to the availability of affordable ESI.

6. At the hearing on October 31<sup>st</sup>, the parties discussed that petitioner husband might be alternatively eligible for Medicaid for Working People with Disabilities. The hearing was then adjourned to allow petitioner husband to make that application. However, at the continued hearing on January 13<sup>th</sup>, petitioner husband indicated that he had opted not to apply and that the family was now covered for 2020 by petitioner wife's employer's insurance, thus the only remaining issue is whether the family was properly found to be over income for Medicaid.

ORDER

The Department's decision is affirmed.

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.O.4.

In order to continue to be eligible for Medicaid, a Medicaid recipient must meet income eligibility limits are have household income, for the applicable family size, that is at or below 133 percent of the Federal Poverty Limit. HBEE Rules §7.03(a)(5).

Here, despite Notice errors, the family was ultimately and properly notified that they were over income for Medicaid for Children and Adults as the family's income is above \$4,000/month and thus exceeds the Medicaid for Adults threshold of 138 percent (133% with a 5% disregard) of the Federal Poverty Level for a household of four, which is \$2,961.30 per month. See

<https://info.healthconnect.vermont.gov/thresholds2019>

(effective April 2019). Therefore, petitioners are not eligible for MCA based on that reported income.

The final part of the Department's decision was that petitioners would not be eligible for subsidies because petitioner wife's ESI met the HBEE Rules definition of "Minimum Essential Coverage" (MEC). For an employer-sponsored plan to qualify as providing MEC, "the plan must be affordable and meet minimum value criteria." HBEE Rule §23.01(a), §§23.02-23.03. At the time of the final hearing, petitioners' family had opted to enroll in the ESI for 2020 and the provision of MEC was not in dispute.

As the Department's decision is consistent with the rules, its decision must be affirmed. See 3 V.S.A. § 3091(d); Fair Hearing Rule No. 1000.4D.

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