

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. L-01/20-25
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Appeal of)
)

INTRODUCTION

Petitioner appeals the termination of her insurance for nonpayment of premiums through Vermont's healthcare exchange and the corresponding denial by the Department of Vermont Health Access ("Department") to retroactively reinstate her. The following facts are adduced from a telephone hearing held February 13, 2019 and documents submitted by the parties prior to and following the hearing.

FINDINGS OF FACT

1. Petitioner was enrolled in BC/BS health insurance through Vermont Health Connect ("VHC") starting July 1, 2019, in individual coverage. With federal and state subsidies, this resulted in a premium obligation of \$59.72 per month.

2. On August 7, 2019, VHC mailed petitioner an invoice showing a current amount due of \$59.72. The invoice indicated (as did all invoices described herein) that full payment was due by the 26th of the month and would be

considered late if not made by the end of the month. The invoice also provided that "[t]o ensure coverage for everyone listed above, the "Total Amount Due" must be paid." Petitioner made no payments in August 2019.

3. Because petitioner had not made payment, her insurer mailed her a letter dated September 6, 2019 notifying her that her premium payment was past due, that she was in the first month of her grace period, and that she needed to make payment of the full amount on her invoice that month. The notice warned that coverage could be terminated if full payment was not made and included a graphic on the back describing the operation of the grace period and effective month of any termination of coverage. The notice also provided that "[t]he grace period gives you a little extra time to pay your premium before we terminate your coverage."

4. VHC mailed an invoice to petitioner dated September 7, 2019 which showed a current amount due of \$59.72 and a balance forward of \$59.72, for a total amount due of \$119.44. Petitioner made a payment of \$59.72 on September 9, 2019 but made no further payments in September 2019.

5. As a result, petitioner's insurer mailed her a notice dated October 7, 2019 that her payment was past due, she was in the second month of her grace period, and she

needed to make full payment of the invoice she would receive that month or risked termination of her insurance. The notice contained the same information mentioned above about operation of the grace period, which included an advisory that her provider claims would not be paid.

6. VHC also mailed an invoice to petitioner dated October 7, 2019, which showed a current amount due of \$59.72 and a balance forward of \$59.72, for a total amount due of \$119.44. Petitioner made a payment of \$59.72 on October 11, 2019 but made no further payments that month.

7. As a result, petitioner's insurer mailed her a letter November 7, 2019 that her premium payment was past due, that she was in the third "and final" month of her grace period, and that she needed to pay the full amount due on her invoice or risked termination. This letter contained the same information contained in the previous two letters about operation of the grace period, including the graphic showing that coverage would "end" starting in the month after the grace period, effective at the end of the first month of non-payment i.e. the first month of the grace period.

8. On November 7, 2019 VHC mailed petitioner an invoice which showed a current amount due of \$59.72 and a balance forward of \$59.72, for a total amount due of \$119.44.

Petitioner made a payment of \$64 on November 8, 2019. On November 9, 2019 VHC mailed petitioner a notice that she made only made a "partial payment" of her total amount due, advising her to pay the full amount due "as soon as possible," and that if the full amount was not received by the 26th of the month, she risked termination of her insurance. Petitioner made no further payments in November 2019.

9. As a result, petitioner's insurer mailed her a letter dated December 11, 2019 notifying her that her insurance had been terminated, effective September 30, 2019.

10. During the pendency of this appeal, petitioner was screened for Medicaid and found eligible starting December 1, 2019. Unfortunately, petitioner has a large medical bill (of over \$5,000) incurred in October 2019 which is uncovered due to the termination of her insurance. Petitioner argues that the notices she received were inadequate to warn her that her insurance would *actually* be terminated, because the notices include language that her insurance "may be" terminated. Petitioner also argues that she received a renewal notice (as well as an insurance card) for her 2020 insurance dated November 13, 2019 which led her to believe she was in good standing. However, that notice includes a warning for anyone

who "has entered a grace period in September, October or November" that "[y]ou must pay your entire bill on time to keep your coverage" and that "your insurance will end" if the entire amount owed is not paid before the end of the grace period.

11. Following the hearing, petitioner submitted an email she had received from VHC indicating that her online account password was about to expire, and offered it as proof that the VHC system is error-prone, given that her insurance was terminated several months prior and thus her account should have been terminated. While not objecting to the admission of this email, the Department responded that petitioner's online account remains active due to her Medicaid enrollment.

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 1000.3.0.4.

Recipients of health insurance through VHC are required to pay premiums in the month prior to the month of coverage. See Health Benefits Eligibility and Enrollment ("HBEE") Rules § 64.00(g). The rules allow the insurer to terminate coverage for nonpayment of premium(s) after the expiration of a three month "grace period" for individuals receiving a federal subsidy through an Advance Premium Tax Credit ("APTC"). See HBEE Rules § 76.00(b)(2)(i)(A).

The three-month grace period is established in rule for individuals enrolled in a health plan through VHC and receiving an APTC subsidy. See HBEE Rules § 64.06(a)(1)(i).¹ The grace period remains in effect so long as the enrollee is not fully current on her healthcare premium(s), for a maximum of three consecutive months, after which coverage is terminated. See HBEE Rules § 76.00(b)(2)(i)(A). Under the regulations, the insurer has the obligation of providing notice of the grace period to the enrollee. See HBEE § 64.06(b)(1)(i)(A) (specifying content of notice).

If the nonpayment is cured in full after commencement of the grace period and prior to expiration of three consecutive months, the grace period ceases, and termination of coverage

¹Enrollees not eligible for APTC have a grace period of one (1) month. See HBEE Rules § 64.06(a)(1)(ii).

is averted. See HBEE Rules § 64.06(b). Curing the grace period requires payment of outstanding premiums due. See *id.* If coverage is ultimately terminated for nonpayment, termination is effective as of the end of the first month of the grace period. See HBEE Rules § 76.00(d)(4).

The record establishes that the premium bills and the grace period notices were mailed as described above. The grace period notices have consistently been upheld by the Board as sufficient to advise beneficiaries of the consequences of nonpayment, as well as the opportunity to contact VHC with questions. See e.g. Fair Hearing No. A-07/18-502; Fair Hearing No. B-06/17-267.² Under these circumstances, notice was reasonably given, and petitioner failed to make timely and sufficient payments of her premium due prior to the end of the applicable grace period. While petitioner's loss of insurance while incurring a significant medical bill is extremely unfortunate, and she argues for the Board to make an "equitable" decision, the remedy she seeks is not warranted by the rules and the circumstances here.

² In this case, it must be noted that petitioner received additional notices - a partial payment notice and her 2020 renewal notice - warning her that her insurance would be terminated for non-payment of her premium due by the end of her grace period.

As such, the termination of petitioner's insurance and denial of reinstatement and is consistent with the applicable rules and must be affirmed. See 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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