

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. N-12/19-808  
 )  
Appeal of )  
 )

INTRODUCTION

Petitioner appeals the determination that she is ineligible for a Special Enrollment Period (SEP) for 2019 coverage by the Department of Vermont Health Access (Department). The following facts are adduced from a telephone hearing held January 9, 2020 and documents submitted by the Department.

FINDINGS OF FACT

1. Petitioner, her husband, and three (3) children were enrolled in Medicaid for Children and Adults (MCA) in 2019. On April 7, 2019 the Department sent petitioner a notice that she had to renew their Medicaid application by May 12<sup>th</sup>. When it did not hear from the petitioner, the Department sent a notice dated May 14<sup>th</sup> entitled *Important Notice - Your Medicaid for Children and Adults/Dr. Dynasaur is ending* on May 31, 2019. The Notice stated that petitioner had failed to renew her coverage and that coverage would end

for all five (5) members of the family if she did not renew prior to May 31<sup>st</sup>. That Notice also contained an informational section entitled "[H]ow do I get a Qualified Health Plan?" The language in that section included the statement

In order to enroll in a Qualified Health Plan (QHP), you must either qualify for a Special Enrollment Period or apply during the annual Open Enrollment Period. Losing your Medicaid coverage entitles you to a Special Enrollment Period, as long as you responded to your renewal notices...

2. Petitioner did not file a renewal application and her Medicaid was closed effective May 31<sup>st</sup>.

3. Petitioner did later file a renewal application that was processed on July 8<sup>th</sup>. On July 17<sup>th</sup>, the Department sent petitioner a request for income verification with a deadline of July 29<sup>th</sup>. Based on the submission of her 2017 tax return, the Department issued a Notice of Decision dated September 26, 2019, that petitioner and her husband were found over income and ineligible for Medicaid but the three (3) children were eligible for Dr. Dynasaur with a \$60 co-payment. The start date of the retroactive coverage was a subject of discussion between petitioner and the Department, but at hearing, petitioner stated that the start date was no longer in dispute.

4. Petitioner contacted the Department to request enrollment in a Qualified Health Plan (QHP). At hearing the parties agreed that the petitioner requested an internal (with the Health Care Appeals Unit of Vermont Health Connect) appeal of the denial in September 2019, but that appeal was ultimately closed due to lack of follow up by petitioner.

5. Petitioner requested a fair hearing on December 5, 2019. The basis for petitioner's appeal is that the Department would not grant her a Special Enrollment Period (SEP) to enroll in a Qualified Health Plan (QHP) for the remainder of 2019. At hearing, petitioner said that she agreed that she did not respond to the Medicaid renewal notices. Petitioner said that she knew that she and her husband were over the income limit for Medicaid. However, petitioner stated that she did not know that the non-renewal would result in the denial of a SEP. Petitioner had medical needs in the later part of 2019 and wanted to enroll in QHP coverage; as a result of the Department's denial of a SEP, petitioner has unpaid medical bills. The Department argues that petitioner voluntarily let her Medicaid coverage lapse

and so is ineligible for a SEP, and that the appeal is also untimely<sup>1</sup>.

6. Petitioner and her husband are enrolled in coverage for 2020.

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.

In order to continue to be eligible for Medicaid, a Medicaid recipient must complete the annual renewal application provided by the Department within 30 days from the date of the renewal notice so that the Department can confirm continued eligibility. See HBEE Rules §75.01(a), §75.03(b)(1)(ii), and §75.03(c). Petitioner failed to

---

<sup>1</sup>While an appeal, which must be made within 90 days of the Department's decision per HBEE Rule 80.04(c), of the May 31<sup>st</sup> Medicaid closure would be untimely, the Department also issued a Notice of Decision dated September 26, 2019, from which a December 5, 2019 appeal would be timely. It is not entirely clear which decision petitioner appeals as this matter was considered in an internal appeal for an unspecified period to time. Therefore, the issue of the timeliness of petitioner's appeal is reserved.

complete the renewal process and is deemed to have voluntarily closed her benefit.

Petitioner was not eligible for a SEP to be screened for subsidies and enroll in a QHP because she voluntarily let her prior Medicaid coverage lapse and there is no provision for a SEP under the rules. See Health Benefits Eligibility and Enrollment Rule (HBEE Rule) §71.03(d) [Special Enrollment Periods}.

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.

# # #