STATE OF VERMONT

HUMAN SERVICES BOARD

In re	)	Fair Hearing No. B-12/20-800
	)	
Appeal of	)	
	)	

INTRODUCTION

Petitioner appeals the decision denying her request for a retroactive termination date for her Qualified Health Plan (QHP) by the Department of Vermont Health Access (Department). The following facts are adduced from a telephone hearing held January 14, 2021 and documents submitted by the Department.

FINDINGS OF FACT

1. Petitioner was approved for enrollment in a QHP in January 2019. Petitioner requested financial assistance to assist in reducing the cost of the premium and, based on her reported income at that time, she was found eligible for the Advance Premium Tax Credit (APTC). Petitioner received APTC in the amount of $426.12/month which left her with a $0 monthly premium for coverage in the MVP Standard Bronze 2019 plan.

2. In March 2019, petitioner contacted the Department to report a change in income. By Notice of Decision dated April 3, 2019, the Department notified petitioner that she was eligible for increased APTC of $489.70 going forward.

3. Consistent with invoices issued for January through April 2019 coverage, on April 7, 2019, the Department mailed petitioner an invoice for May 2019 coverage showing application of $426.12 in APTC and a $0 monthly premium.

4. On April 30, 2019, petitioner contacted VHC and reported that she had new employment that offered insurance effective May 1, 2019, and that she wished to terminate her QHP. Based on the call the Department terminated petitioner's insurance effective May 31, 2019.

5. On January 16, 2020, the Department mailed petitioner the IRS Form 1095-A Health Insurance Marketplace Statement. The form indicated that petitioner had received APTC in the amount of $426.12 for the months of January through the end of May 2019.

6. On November 24, 2020, petitioner contacted the Department because she had just been contacted by the IRS regarding her obligation to repay the APTC she received from January through the end of May 2019. The obligation to repay apparently occurred because of the amount of petitioner's

actual income was more than she has expected and more than what had been reported on the VHC application. In any event, petitioner argues that since she called VHC on April 30th her coverage should have been terminated effective April 30th.

7. The Department denied the request for retroactive termination and argues that petitioner was on notice that she had coverage in May by letter dated January 16, 2000, which included her 1095-A form showing that she had received coverage for the months of January through the end of May 2019. Petitioner did not contact the Department or request a fair hearing until November 2020 and her request is therefore untimely.

ORDER

The petitioner's appeal is dismissed for lack of jurisdiction.

REASONS

The Board's review of the Department's decisions 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.

The preliminary issue is whether the Board has the authority to hear the appeal. The Health Benefits

Eligibility and Enrollment (HBEE) Rules provide that an individual must appeal from a notice or decision issued by the Department within 90 days. *See* HBEE Rule §69.02(c)[Notice of Decision concerning eligibility] and § 80.03 (a)(5)[Right to a State fair hearing], §80.04(c)[Request for a State fair hearing](appeal must be filed with the Board within 90 days from the mailing date of the AHS decision).

The 1095-A form mailed to the petitioner on January 20, 2020, notified petitioner that she had received coverage through the end of May 2019. Petitioner failed to appeal to the Board within 90-days of that notice and her appeal is therefore untimely. See Fair Hearing No. Y-06/19-396.

Because petitioner's appeal was untimely, the Board lacks jurisdiction over petitioner's appeal, which must be dismissed. *See* 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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