

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. Z-11/20-742
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Appeal of)
)

INTRODUCTION

Petitioner appeals a denial of retroactive termination or cancellation of a qualified health plan ("QHP"), by decision of the Department of Vermont Health Access ("Department"). The following facts are based upon a hearing held December 17, 2020, documents and an audio file submitted by the Department on January 11, 2021. A preliminary issue is whether petitioner's appeal is untimely.

FINDINGS OF FACT

1. In June 2019, petitioner contacted Vermont Health Connect ("VHC") to enroll herself and her spouse in a QHP (their children were covered under Dr. Dynasaur, which is not at issue here). Petitioner successfully completed an application and was enrolled in coverage.

2. Petitioner was initially enrolled with a start date of June 1, 2019. She contacted VHC on June 21, 2019, to request enrollment beginning July 1, 2019. It appears that

this request was granted; or, at least, that was what was communicated to petitioner at the time.

3. Petitioner contacted VHC on July 22, 2019 to request termination of her and her spouse's coverage, because the family was moving out-of-state. This termination was processed, accordingly, to take effect as of July 31, 2019.

4. Petitioner had no further contact with VHC until March 9, 2020, when she contacted VHC after discovering that her 2019 insurance had started on June 1, 2019, instead of July 1, 2019.

5. In her March 9, 2020 call to VHC, petitioner requested that the start date be restored to July 1, 2020, indicating that she had made doctor's appointments for July 2019 (instead of June 2019) in anticipation of her coverage at that time. VHC granted this request on March 24, 2020, removing June 2019 from petitioner's QHP coverage and sending petitioner an amended 1095-A tax form reflecting that change. VHC's records credibly establish that this change was further confirmed and communicated to petitioner when she contacted VHC about the matter on April 14, 2020 (an audio recording of this call also confirms the same).

6. Petitioner subsequently contacted VHC in October 2020 to request that her July 2019 insurance coverage be

terminated, as well (which would appear to effectively cancel her 2019 coverage altogether).

7. Petitioner argues that "unforeseen circumstances" regarding her family's situation support termination of her July 2019 coverage. However, there is no evidence that VHC erroneously enrolled petitioner in July 2019 coverage and, in fact, VHC enrolled petitioner in that coverage in accordance with specific requests that she made.

ORDER

Petitioner's appeal is dismissed as untimely.

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 QHP-related decision 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). The latest possible date that petitioner could

possibly assert that she was on notice of her July 2019 enrollment was April 14, 2020, in response to her own coverage request. Petitioner's appeal was made approximately six (6) months after that date, well beyond the 90-day time limit for appeals. There is no factual or legal basis under these circumstances to depart from the clear requirement of making a timely appeal, which is a basic element of Board jurisdiction to hear the appeal.

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

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