STATE OF VERMONT

HUMAN SERVICES BOARD

In re	)	Fair Hearing No. B-01/11-35
	)	
Appeal of	)	

INTRODUCTION

The petitioner appeals a decision by the Department for Children and Families, Health Access Eligibility Unit, terminating their youngest daughter, C.D., from the Catamount Health Premium Assistance Program (CHAP) for the month of January 2011 due to nonpayment of premium.

The issue is whether the Department correctly terminated C.D.'s CHAP coverage for the month of January 2011. A hearing was held on February 10, 2011. The record was kept open for the parties to supplement the record. The Department supplemented the record. The decision is based on the evidence adduced at hearing and the materials submitted by the Department.

FINDINGS OF FACT

1. The petitioner lives with her husband and their two daughters. On or about May 11, 2010, the petitioner's husband applied for health care coverage on behalf of the family. Petitioner's husband is listed as head of household.

The older daughter is twenty years old. The younger daughter, C.D., turned eighteen years old in June 2010.

2. The Department sent petitioner monthly bills for continued CHAP coverage. The family was charged $240 per month or $60 per recipient.

3. During late November 2010, petitioner received a bill for $240 to cover services for January 2011.

4. On or about December 20, 2011, the Department issued a health care closure notice to close CHAP on December 31, 2010 because the Department had not received the premium for January 2011.

5. On or about December 21, 2010, the petitioner sent in payment of $180 for January 2011.

6. The Department received the payment of $180 and allocated the premium to the head of household, his spouse, and to the oldest child. On or about December 28, 2010, the Department issued a Notice of Decision that petitioner, her husband (head of household), and their oldest daughter remained eligible for CHAP.

7. C.D. was ineligible for CHAP during January 2011. She once again became eligible February 2011. C.D. incurred medical expenses during January 2011.

8. Petitioner called the Department and asked for a fair hearing at the beginning of January 2011.

9. Petitioner started employment in September 2010 with a company that provided health insurance. Petitioner timely notified the Department of her employment. The Department of Vermont Health Access started the process of determining whether the Employer Sponsored Insurance (ESIA) provisions applied to petitioner. Petitioner was sent information on or about September 24, 2010 seeking information about the employer's health insurance plan and telling her not to enroll until the Department of Vermont Health Access asked her to do so.[1]

10. Petitioner testified that her employer has a ninety-day waiting period before a person can enroll. Petitioner testified that she wrote on the premium coupon that she should be deleted from coverage because she had other coverage. Petitioner started coverage from her employer January 1, 2011. Petitioner did not speak to the Department's Member Services asking to be removed from CHAP coverage. Petitioner testified that she thought the

[1] The Department determines financial eligibility for the different health access programs and monitors continuing eligibility including the payment of premiums. The Department of Vermont Health Access looks at the terms of employer-sponsored health insurance to determine if that insurance meets the criteria for state subsidy through ESIA.

Department knew she was covered by her employer as of January 1, 2011.

11. On or about December 27, 2010, the Department of Vermont Health Access sent petitioner a Plan Information Open Enrollment form asking for information about the employer's health plan to see if the State would approve the plan and subsidize the cost of her insurance. It appears that the petitioner enrolled in her employer's program before this process was completed.

12. The Vermont Health Care Programs Bill was admitted into evidence. This bill is sent monthly to CHAP participants. The pertinent sections state:

> **Pay the amount due in full to continue health care coverage.** If you cannot pay the total amount for everybody, or if you have questions or need to report changes, please call Member Services at. . .
>
> (under reminders) Do not write messages on the coupon. Please call the phone number below.

13. L.R., a benefit program specialist with the Health Access Eligibility Unit, testified that she had no notice that petitioner wanted to be taken off of CHAP for January 2011.[2]

[2] It appears that the payment coupons go directly to the bank where the funds are deposited. The payment coupon is then destroyed.

ORDER

The Department's decision to terminate C.D. from CHAP due to nonpayment of premium is affirmed.

REASONS

The Vermont Legislature enacted Act 191 in 2006 to provide more comprehensive health care coverage to Vermonters. The CHAP program is one part of Act 191 in that CHAP provides premium assistance to adults who are not eligible for VHAP (Vermont Health Access Program) or are uninsured or do not have access to an approved employer-sponsored health insurance plan and whose income is no more than 300 percent of the federal poverty limits. W.A.M. §§ 5900 and 5913.

CHAP recipients pay a premium to the State that is forwarded to the applicable insurance company along with the State's share of the full premium. W.A.M. §§ 4161 and 5922. The Department bills recipients for their share of the premium at least twenty-five days in advance of the last day they would lose coverage if they did not pay the premium. W.A.M. § 4161(b)(2). In petitioner's case, her family was billed for the January 2011 premium before the end of November 2010.

When the Department did not receive the premiums by mid-December 2010, the Department properly issued a Notice of Health Care Closure on December 20, 2010 to be effective December 31, 2010 if the premiums were not forthcoming.

Petitioner sent in $180 to the Department prior to the end of December 2010 representing the premium for three members of her household.

The Medicaid rules address what the Department should do when they receive partial payment of the premium. W.A.M. § 4161(b)(2)(c) states, in part:

> reinstate coverage without a break in benefits if the department receives the payment by the last day of the month, or the first business day following the last day of the month in which the due date falls.
>
> . . .If there is more than one beneficiary in the same coverage group with the same premium amount, the department will apply the partial payment to the first beneficiary listed on the bill.

The Department followed the above regulation by applying the premium to the head of household, petitioner, and then the eldest daughter (the order of beneficiaries in the CHAP coverage group).

The petitioner argues that she gave notice by writing on the payment coupon. But, beneficiaries are directed not to write on the payment coupon but to call Member Services with questions or requests for changes. It appears the reason for

doing so is that the payment coupons do not go to the benefit program specialists but to the bank with the deposit where the payment coupons are then destroyed. Without petitioner telephoning Member Services and asking for a different order for the partial payment, the Department was correct in their determination.

In addition, the paperwork in petitioner's file indicates that the Department of Vermont Health Access had not yet determined whether the employer's plan met State requirements. Thus, petitioner continued to be covered by CHAP until the ESI determination was made. One understands petitioner's confusion about this process given that two different Departments were involved in her case and that the materials and procedures are not easy to understand.

In this case, the Department correctly followed the regulations when they determined that the partial premium payment did not cover C.D. and, as a result, terminated C.D. from CHAP for the month of January 2011. Thus, the Department's decision is affirmed. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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