

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. B-01/16-47
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Appeal of)
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INTRODUCTION

Petitioner appeals the decision of the Vermont Department for Children and Families ("Department") terminating her eligibility for Medicaid. The following facts are adduced from a hearing held March 21, 2016 and information filed by the Department on April 22, 2016. Petitioner attended the hearing and at her request a Rundi interpreter was provided by phone.¹

FINDINGS OF FACT

1. Petitioner arrived in the United States in or around May of 2015. Due to medical need, she was granted eligibility for "Medicaid Payment of Emergency Medical Services" from July 27, 2015 to August 10, 2015.

¹ This recommendation was initially on the Board's August 2016 agenda. Prior to Board consideration, petitioner's immigration attorney (until that point unaware of these proceedings) requested an opportunity to review and potentially brief the issues on appeal. By letter dated October 7, 2016, petitioner's immigration attorney indicated that no briefing would be filed on her behalf, and reserving the right (not disputed) of petitioner to reapply for Medicaid in the future if the Board affirms the Department's decision.

2. Petitioner subsequently applied for healthcare coverage in the fall of 2015, with the assistance of a healthcare navigator. The navigator indicated on the application that petitioner has the necessary immigration status for the purposes of eligibility. On the basis of this application, petitioner was granted Medicaid coverage effective October 1, 2015.

3. The Department subsequently discovered that petitioner does not have the necessary immigration status for ongoing Medicaid (or any other ongoing healthcare program) coverage.

4. The Department mailed petitioner a notice dated November 19, 2015 indicating that her coverage would end. The notice did not include a termination date or a date by which to request continuing benefits.

5. Petitioner eventually appealed her termination of Medicaid on January 20, 2016. At hearing, petitioner did not dispute her lack of the requisite immigration status for the purposes of Medicaid (or other healthcare programs) eligibility.²

² Petitioner testified to persecution in her native country and did not enter the United States through a refugee agency. She is currently seeking asylum status in the United States.

6. During the pendency of this proceeding and upon review of the notice provided to petitioner in November of 2015, the Department restored her Medicaid eligibility and issued a new notice of decision on April 20, terminating her Medicaid as of May 31, 2016.

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.

The non-financial criteria for Medicaid eligibility includes "citizenship or immigration status." Health Benefits Eligibility and Enrollment ("HBEE") Rules § 6.00(b)(1). Satisfactory immigration status for the purposes of eligibility includes being a lawful permanent resident or an individual with asylum or refugee status, among other things. HBEE Rules § 17.00. There is no dispute that petitioner lacks the requisite citizenship or immigration status for Medicaid eligibility.

The Department's denial is therefore consistent with the governing regulations and the Board is required to affirm.

See 3 V.S.A. § 3091(d); Fair Hearing Rule No. 1000.4D.

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