

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. N-08/16-808
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Appeal of)
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)

INTRODUCTION

Petitioner appeals a decision by Vermont Health Connect (VHC) that she is in arrears on her premium payments for coverage under a Qualified Health Plan (QHP) from January through June of 2016. The issue is whether VHC's regulations authorize VHC to waive premiums due for coverage during that period.

The following facts are adduced from the testimony of petitioner and a VHC representative during telephone hearings on November 8 and December 6, 2016,¹ copies of records from VHC, and copies of cancelled checks from petitioner.²

¹ Petitioner was not available when she was called for the first telephone hearing scheduled on September 26, 2016, so her hearing was rescheduled for October 18, 2016. She subsequently informed the Board that she was not available on October 18th, so the hearing was rescheduled on November 8, 2016.

² The copies of VHC's records and petitioner's cancelled checks were admitted as evidence for the record without objection.

FINDINGS OF FACT

1. Petitioner had health insurance for her and her husband through a Blue Cross Blue Shield (BCBS) Gold Plan from the VHC Exchange in 2015. After deducting federal Advanced Premium Tax Credits (APTC) of \$452.87, petitioner and her husband owed a premium of \$630.63 per month for their BCBS coverage.³

2. Petitioner paid \$630.63 each month for BCBS coverage for her and her husband through November 30, 2015.

3. In November of 2015, petitioner made a series of calls to VHC to report that Medicare coverage would start for her husband on December 1, 2015, and to request that she be enrolled in a BCBS Gold Plan with individual coverage.

4. Transcripts of petitioner's calls to VHC reflect some confusion over petitioner's household income, and as a result, the new premium for petitioner's individual coverage. During one call, a VHC representative, based on an annual income estimate of approximately \$33,000 (apparently based only on petitioner's income), told her that her new premium would be around \$230 per month. In a subsequent call during

³ Petitioner and her husband were not eligible for Vermont Premium Assistance because their household income exceeded 300 percent of the Federal Poverty Level.

which petitioner's household income estimate had been increased to approximately \$52,000 (including property rental income and her husband's Social Security), another VHC representative told petitioner that her premium would be over \$500 per month. Petitioner expressed frustration that she was required to pay over \$500 per month just for her when she and her husband had paid \$630.63 per month for couple's coverage.

5. VHC records show that, based on petitioner's household income of \$52,270.52, petitioner was eligible for APTC of \$19.64 for December 2015, and APTC of \$47.27 per month in 2016. Because of this lower APTC amount, petitioner's premium for December 2015 was \$522.11, and it increased slightly to \$526.09 per month for 2016.

6. On December 22, 2015, petitioner submitted a partial premium payment of \$315.32 for BCBS coverage in December, leaving her with a balance of \$206.79 still owed for that month.

7. On January 7, 2016, petitioner submitted a partial premium payment of \$315.32 for BCBS coverage in January 2016. VHC applied \$206.79 of this payment to the remaining balance due for December 2015, and applied \$108.53 to the premium due for January 2016, leaving petitioner with a balance due of \$420.56 for January 2016.

8. Starting on January 7, 2016, and in the following months, VHC mailed petitioner invoices showing that she owed a monthly premium of \$526.09, credits for her payments of \$315.32 and APTC, and increasing balances for past due premiums.

9. Petitioner submitted premium payments of \$315.32 for each month through September of 2016. Based on the available evidence, it appears that petitioner made a decision, notwithstanding her receipt of VHC's invoices showing she owed \$526.09 per month, to submit payments of only \$315.32 each month, or half the premium amount she previously owed for BCBS couple's coverage in 2015.

10. On June 3 and July 6, 2016, VHC mailed petitioner grace period notices in which she was informed that she was in her first and second months of a grace period, respectively, and that her coverage could end if she did not pay all premiums due. On August 1, 2016, VHC mailed petitioner a grace period notice in which she was informed that she was in her third and final month of her grace period, and that her coverage could end if she did not pay all premiums due. All three notices informed petitioner that she might not be able to enroll in insurance until January of 2017 if her 2016 coverage ended for non-payment of premiums, and urged

petitioner to call VHC if she was not sure if her premiums were paid in full.

11. On August 9, 2016, petitioner called VHC and reported she had received a letter (apparently VHC's third grace period notice) informing her that her BCBS coverage was going to end due to non-payment of premiums. That same day a VHC representative explained the amount of premiums past due, but petitioner declined to pay that amount and requested a fair hearing. VHC records indicate that as of August 9, 2016, VHC was willing to continue petitioner's BCBS coverage if she paid \$3,049.68 for coverage through September.

12. Although no termination notice from BCBS was included in VHC's records, petitioner testified that she received a BCBS notice in October informing her that her coverage had ended effective June 30, 2016.

13. At hearing on November 8, 2016, VHC represented that it would reinstate petitioner's BCBS plan without a break in coverage if she paid \$4,105.84 for all twelve months of 2016. VHC's offer was based on its understanding that petitioner had submitted partial payments through June, no payments in July or August, and a partial payment in September.

14. VHC also offered to terminate petitioner's coverage effective June 30, 2016 (based on petitioner's receipt of

three grace period notices), in which case VHC calculated that, after applying petitioner's partial payments to date, she would still owe a balance of \$949.30 for BCBS coverage through June.

15. Petitioner disputed the amounts owed under either scenario based on her assertions that VHC did not inform her of the premium of \$526.09 due each month for her 2016 coverage. In response to VHC's testimony that it had not received any payments in July or August, petitioner testified that she had submitted checks in those months. The matter was continued to allow petitioner to submit copies of her cancelled checks.

16. By letter dated November 14, 2016, petitioner submitted copies of her cancelled checks, including copies of checks dated July 1 and July 26, 2016 (received by VHC on July 7 and August 1, 2016). By letter dated November 17, 2016, VHC informed petitioner that two missing checks had been located, and informed petitioner that she owed \$3,681.99 if she wanted BCBS coverage through December, or that she owed a balance of \$525.45 for coverage through June.

17. Based on a review of VHC's records and petitioner's cancelled checks, it is found that VHC correctly calculated the amounts set forth in paragraph 16, above.

18. At hearing on December 6, 2016, petitioner declined VHC's offer to reinstate her coverage through December if she paid \$3,681.99, and asserted that she should not have to pay the \$525.45 still due for coverage through June because of errors VHC made when it informed her of the new premium amount for her BCBS individual coverage.

19. VHC may have made errors when its representatives provided petitioner with preliminary estimates of her new premium during telephone calls in late 2015, but it must be found that VHC's second premium estimate of over \$500 was accurate. Based on that estimate, and based on the invoices VHC mailed to petitioner from January through August of 2016, it is found that VHC properly notified petitioner that she owed \$526.09 per month for individual coverage under a BCBS Gold Plan in 2016.

ORDER

VHC's decision that petitioner owes a balance of \$525.45 for BCBS coverage through June of 2016 is affirmed.

REASONS

The Board's review of VHC decisions is *de novo*. As petitioner appeals VHC's denial of her request to waive the past due premium balance for her 2016 coverage, she has the

burden of proving by a preponderance of evidence that VHC's decision does not comply with its regulations. Fair Hearing Rule 1000.3.0(4). It must be concluded that petitioner has not met her burden here.

All individuals who are enrolled in a QHP are required to pay monthly premiums. Health Benefits Eligibility and Enrollment Rules (HBEE) § 64.00(a). VHC's rules limit situations in which refunds or credits of premiums may be provided as follows:

Premium payments are generally nonrefundable. . . With respect to QHPs, premiums may be refundable in certain cases, including death, overpayment (including retroactive adjustment of APTC), and invoicing errors.

HBEE § 64.00(j).

The petitioner's request for an exemption from paying her past due premiums for coverage through June of 2016 does not meet these criteria. Based on VHC's ongoing invoices and its three grace period notices that petitioner faced termination of her coverage for non-payment of premiums effective June 30th, it is clear that the petitioner had, and knew she had, insurance coverage from January through June of 2016. Moreover, the record is clear (at least in retrospect) that VHC correctly calculated the petitioner's premiums due for all the months in question, and correctly subtracted her partial

payments to arrive at the amount of \$525.45 still due for coverage through June. Petitioner did not overpay any premium due in 2016. Instead, the record shows that she consistently underpaid the amount owed notwithstanding her receipt of VHC's monthly invoices showing the higher, and correct, premium due.

There are no provisions in the regulations requiring VHC (and, ultimately, the insurance carrier) to, in effect, waive the payment of past due premiums for a period of time when the carrier provided coverage. Therefore, VHC's decision in this matter must be affirmed. 3 V.S.A. § 3091(d); Fair Hearing Rule 1000.4D.⁴

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⁴ Petitioner should note that open enrollment to sign up for health insurance coverage for 2017 began on November 1, 2016 and will end on January 31, 2017.