STATE OF VERMONT

HUMAN SERVICES BOARD

In re	)	Fair Hearing No. 15,164
	)	
Appeal of	)	

INTRODUCTION

The petitioner appeals a decision of the Department of Social Welfare denying Vermont Health Access Plan (VHAP) benefits to his daughter who is enrolled in a Vermont state college.

FINDINGS OF FACT

1. The petitioner lives with his wife and children on veteran's benefits of $996 per month. They have all been found eligible for and have received VHAP benefits for at least a year.

2. One of the petitioner's children is nineteen years old and in her second year as a full-time college student, now enrolled at a state college. (She went to another college last year but transferred to save money.) She was offered health insurance coverage for hospital and physician services through the state college at an annual fee of $308. Her parents declined to buy the insurance for this school year because they were covered by VHAP. They can buy coverage for half of the year, beginning January 1, 1998 for $213.

3. On August 27, 1997, the petitioner was mailed a notice informing him that his college-aged daughter would

no longer be covered by VHAP because she did not meet the definition of "eligible student." On August 29, 1997, a corrected notice was sent to the petitioner telling him that his daughter would not be covered because she had declined insurance available to her through her educational institution.

4. The petitioner's daughter pays at least part of her tuition and fees through the work-study program. She was covered by VHAP last year, even though the school she attended last year also offered health insurance. The Department's only explanation for that payment is that it was a mistake.

5. The petitioner cannot afford to pay for the insurance offered by the college. He maintains that his daughter should be found eligible for VHAP because he has a right under the regulations to choose to elect that coverage for her, even if she is a college student. The petitioner has also complained that when he called the VHAP office in regard to this denial he was treated disrespectfully and rudely by a VHAP employee who insinuated that his daughter and others like her were taking advantage of the system to get free health care benefits.

ORDER

The decision of the Department is affirmed.

REASONS

The Vermont Health Access Plan has as its goal to "provide expanded access to health care benefits for uninsured low-income Vermonters." W.A.M. ə 4000. Under its regulations an individual is eligible for VHAP only if she is uninsured or underinsured. W.A.M. ə 40001.2. With regard to college students that provision specifically states:

> . . .
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> In addition, students under the age of 23 enrolled in a program of an institution of higher education in Vermont are not eligible for coverage if they have elected not to purchase health insurance covering both hospital and physician services offered by their educational institution or if they are eligible for coverage through the policy held by their parent(s), but their parents have elected not to purchase this coverage.
>
> W.A.M. ə 4001.2

The petitioner's daughter appears to be squarely excluded by the language of this regulation from VHAP coverage since she has elected not to purchase health insurance covering both hospital and physician services offered by the state college system. The petitioner does not disagree that his daughter declined the state college insurance but argues that she should be eligible because he

has elected to have her covered by his health insurance, VHAP.

The petitioner's reading of the second part of the regulation above is incomplete and circular. In order for the petitioner to elect his daughter for coverage, thus maintaining her potential eligibility for VHAP as an underinsured student, it must be shown that she is eligible for coverage through a policy held by her parents. The petitioner's daughter is clearly not eligible for coverage for the very reasons set forth by the Department in its closure, namely that she has group insurance available to her through another means. Therefore, it would not be possible for the petitioner to elect to purchase coverage for her through this program.

Under the language used in the Department's policy, the cost of the group insurance made available by the school is not a factor in determining its availability to the student. While it is surely a hardship for a family on a limited income to come up with even an extra $25 per month for insurance, it cannot be said that the regulation which seeks to limit VHAP payments to persons who can't get group insurance elsewhere is unreasonable. The decision of the Department should, therefore, be affirmed. 3 V.S.A. ə 3091, Fair Hearing Rule 17. The petitioner was referred to internal personnel grievance procedures at DSW with regard to his treatment by the VHAP employee as the Board has no

jurisdiction over this issue.

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