

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. B-05/14-364
)
Appeal of)

INTRODUCTION

The petitioner appeals a decision of the Economic Services Division of the Department for Children and Families finding her ineligible for a subsidized Quality Health Plan (QHP) on the Vermont Health Connect insurance exchange. The issue is whether the petitioner currently has "minimum essential coverage" (MEC) offered to her by her husband's employer. The facts are not in dispute.

FINDINGS OF FACT

1. The petitioner and her husband have one child in their household. The petitioner and her husband are both employed and have a combined annual income of \$48,362.50.

2. The petitioner's husband gets health care through his employer, and that coverage could also be extended to the petitioner, his spouse. Their child is covered through Dr. Dynasaur.

3. On March 10, 2014 the petitioner applied for QHP coverage and subsidies on the exchange. The application was denied because the Department determined that she has minimum essential coverage (MEC) available to her through her husband's employer.

4. The husband's health insurance premiums total \$1,160 per year. The petitioner believes she should be eligible to enroll in a subsidized QHP because she and her husband would pay more than 9.5 percent of their combined annual income (which is \$4,594.43) for employer-sponsored health coverage that includes both of them.

5. There is no dispute that the coverage provided by the husband's employer pays at least 60 percent of the medical costs incurred by beneficiaries under that plan.

ORDER

The decision of the Department denying the petitioner eligibility for a subsidized QHP on the exchange is affirmed.

REASONS

Eligibility for the financial assistance available on the Quality Health Plan (QHP) exchange requires that the applicant not already have an employer-sponsored plan that

meets minimum essential coverage (MEC) which is defined as (1) being "affordable" and (2) meeting "minimum value criteria." Health Benefits Eligibility and Enrollment (hereafter HBEE) Rule § 23.00(a).

The regulations provide with regard to the first factor, "affordability," that an *employee's* employer-sponsored health insurance plan:

. . . is affordable for an employee if the portion of the annual premium the employee must pay, whether by salary reduction or otherwise (required contribution), for self-only coverage does not exceed the required contribution percentage (as defined in paragraph(c)) of the applicable tax filer's household income for the benefit year.

HBEE § 23.02(a)(1)

The current required contribution percentage is 9.5 percent. HBEE § 23.02(c). With the petitioner's annual household income of \$48,362.50, 9.5 percent is \$4,594.43 per year. The husband's \$1,160.12 annual premium for employer sponsored health insurance for himself as the employee is far under that figure. Under the above regulation, the petitioner's husband's health insurance premium is, therefore, "affordable" for him as the employee.

The petitioner is not the employee herself but rather what the regulations refer to as "related-individual."¹ A *related individual's* employer-sponsored health insurance plan:

. . . is affordable for a related individual if the portion of the annual premium *the employee must pay for self-only coverage* does not exceed the required contribution percentage as described in (a) (1) of this subsection.

HBEE § 23.02(a) (2) (emphasis added)

Under this section, "affordability" for the related individual (here the petitioner) is measured not by the amount the employee (her husband) *would* pay to have one or more related individuals added to his coverage, but by the premium that the employee pays *only* for his own insurance. The provision does not allow the Department to consider the higher premium that would be necessary to add the petitioner to her husband's coverage in applying the 9.5 percent "affordability" figure.

¹The regulations provide, in pertinent part, that "a related individual is an individual who is not an employee of an employer offering an eligible employer-sponsored plan, but who can enroll in such plan because of their relationship to the employee. This definition has a similar meaning as the definition of 'dependent' for purposes of the Small Employer Health-Benefits Program under Part Six of this rule" HBEE § 23.01(c) (1)

With regard to the second factor, "minimum value" is defined in the regulations as follows:

An eligible employer-sponsored plan provides minimum value only if the plan's share of the total allowed costs of benefits provided to the employee under the plan (as determined under guidance issued by the Secretary of HHS under § 1302(d)(2) of the ACA (42 USC § 18022(d)(2)) is at least 60 percent.

HBEE § 23.03

As noted above, there is no dispute in this matter that the plan offered by the husband's employer meets this "minimum value" criterion.

Inasmuch as the health insurance offered to the petitioner through her husband's employer is both "affordable" and meets "minimum value" requirements under the above regulations, the petitioner is deemed to have minimum essential coverage (MEC), which renders her not eligible to enroll in any subsidized QHP on the exchange. HBEE § 23.00(a).

It is understandable that the petitioner would maintain that "affordability" (i.e., less than 9.5 percent) should be measured by the cost of the insurance premiums her husband would pay to add her to his employer's insurance plan. However, the regulations clearly provide otherwise, and inasmuch as the Department correctly applied those

regulations when it determined that the petitioner is not eligible to enroll in the subsidized QHP exchange, the Board is required to affirm that decision. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

#