

STATE OF VERMONT
HUMAN SERVICES BOARD

In re) Fair Hearing No. 17,155
)
Appeal of)

INTRODUCTION

The petitioner appeals a decision of PATH finding him ineligible for Vermont Health Access Plan (VHAP) benefits due to his failure to elect medical insurance benefits available to him through his college.

FINDINGS OF FACT

1. The petitioner is a twenty-year-old Vermont resident who is a full-time student at a college in New York. During the last school year, the college offered insurance covering physician and hospital services to the petitioner. The petitioner declined the insurance because he was covered under his father's medical insurance.

2. On May 17, 2001, the petitioner displaced his kneecap while involved in school athletics (wrestling). He discovered at that time that his father's insurance policy had ended when his father lost his job earlier in the spring. (The petitioner does not live with his father.) Because the

petitioner needed surgery on his knee, he applied for VHAP insurance benefits on May 25, 2001. He did not apply at that time for any insurance benefits through the school because it did not occur to him to do so.

3. On June 11, 2001, the petitioner's application for VHAP benefits was denied because he failed to obtain insurance through the school. The petitioner was advised that he could become eligible if he could provide proof that the college he attended offered no insurance.

4. The petitioner appealed the decision and had the surgery on July 10, 2001. At no time following PATH's denial notice through the time of the hearing on July 16 did the petitioner investigate his eligibility for insurance with his college.

5. At a reconvened hearing on August 9, 2001, the petitioner presented evidence obtained from his college regarding the health insurance program. A letter from the insurance program indicated that open enrollment for the school insurance program was available to the petitioner from May 6, 2001 through June 6, 2001. Coverage would have become effective as soon as the insurer received the premium and forms. In addition, the petitioner could have enrolled at any time he experienced a "life-change" situation, so long as

insurance had been in place during the prior enrollment period (January 7, 2001 to January 31, 2001), and notice was given of the change within a reasonable period of time. It appears that the petitioner's father's insurance was in effect during the prior enrollment period.

ORDER

The decision of PATH denying VHAP eligibility is affirmed.

REASONS

Under regulations adopted in the VHAP program, "students under the age of 23 enrolled in a program of an institution of higher education 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". M 4001.6. The petitioner reasonably elected not to purchase health insurance through his college earlier in the year because he was covered by his father's policy. When his father's policy terminated, the petitioner had a clear opportunity to purchase the insurance again virtually at any time he needed to up through June 6, 2001. The petitioner

did not purchase the insurance when he had the opportunity and thus must be found to have elected against its purchase.

While it appears that the petitioner was unaware of his right to make this purchase, his factual ignorance cannot be attributed to PATH. On the contrary, PATH told him on May 25, 2001 that his failure to obtain insurance through his college was a disqualifying factor for VHAP. He was invited to present evidence that there was no insurance available to him through his college. At that point, the onus was on the petitioner to investigate insurance options with his college but he failed to do so. Had he investigated he would have discovered that he still had twelve more days to enroll in the program and receive immediate coverage. The fact that he did not discover that information until early August is unfortunate but appears to be the result of the petitioner's own negligence.

As PATH's decision denying VHAP benefits to the petitioner is consistent with the facts and its own regulation, that decision must be upheld by the Board. 3
V.S.A. § 3091(d), Fair Hearing Rule 17.

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