

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 17,191
)
Appeal of)

INTRODUCTION

The petitioner appeals a decision by the Department of PATH denying her an exemption from enrolling in Medicaid managed care.

FINDINGS OF FACT

1. The petitioner is a disabled woman with a thirteen-year-old son. She experiences chronic pain and has been an SSI and Medicaid recipient for several years. She has chosen a treating physician in a neighboring state (about 45 minutes away) who is a Vermont Medicaid participant. From time to time, the petitioner has engaged other physicians and healers in her attempt to manage her pain, including a psychiatrist, a pain clinic at a hospital, and an acupuncturist.

2. The petitioner was recently notified by PATH that she would be placed on "PC Plus", a managed care program that operates within Medicaid. The petitioner has asked that she be exempted from managed care because she does not want to have to go through a primary physician for referrals to other

medical sources. Although it appears that she could use her current treating physician as a "primary physician" in the managed care program, the petitioner wishes to manage her own care without a "gatekeeper." In addition, getting referrals from her physician would necessitate an out-of-state telephone call to her chosen physician which would cost the petitioner additional money.

3. The petitioner is not on a home or community based-waiver nor is she in a hospice or long-term care facility. Neither she nor her son has any private or other health insurance and that situation is not expected to change in the near future. The petitioner is not a VHAP recipient who became eligible for Medicaid by virtue of a spend-down.

ORDER

The decision of the Department denying the exemption from managed care is affirmed.

REASONS

The Vermont legislature has specifically authorized PATH to "contract with a private organization to operate under his (sic) control and supervision, parts of the medical assistance program." 33 V.S.A. § 1903(a). Pursuant to this authority,

PATH has contracted with private organizations to manage the care of most Medicaid recipients. Most Medicaid recipients are required to enroll in a managed care plan to the extent that there is capacity in the program. See. M103. Certain persons are exempted from the managed care program and continue in a fee-for-service system under specific provisions adopted in the Medicaid regulations:

Eligible beneficiaries receive covered services through either the fee-for-service or a managed health care delivery system. Most beneficiaries are required to receive covered services through the fee-for-service delivery system:

- a) home and community-based waiver beneficiaries;
- b) beneficiaries living in long-term care facilities, including ICF/MRs;
- c) beneficiaries who are receiving hospice care when they are found eligible for Medicaid;
- d) children under age 21 enrolled in the high-tech home care program;
- e) beneficiaries who have private health insurance that includes both hospital and physician services or beneficiaries who have Medicare (Parts A and/or B);
- f) beneficiaries who meet a spend-down who are not enrolled in a VHAP managed health care plan; and
- g) beneficiaries whose requirement to enroll in a managed health care delivery system is anticipated to last for three or fewer months based on known changes, such as imminent Medicare eligibility.

If the beneficiary is not exempt under subsections a-g Above, he or she will be required to receive covered services through a managed health care delivery system.

. . .

M103

The petitioner does not meet any of the criteria for exemption listed in the above regulation. The petitioner argues instead that she should be exempted because she wants the freedom to manage her own care and because managed care would be more expensive for her due to long distance calls to her treating physician.

The regulation above makes it clear that the petitioner can only be exempted if she meets one of the criteria in the above regulation. Exemptions are not allowed for any other reason. The petitioner's desire to manage her own care is understandable but it is a desire undoubtedly shared by many persons who are required to join the managed care program and is not listed as cause for an exemption. Her economic argument is similarly not listed as a cause for an exemption. If the cost associated with making out of state calls is truly an overriding concern for the petitioner, there are most likely primary physicians in the managed care program whom the petitioner could call with little or no expense.

As the petitioner does not meet any criterion listed as a reason for an exemption from participation in the managed care program, PATH's decision must be upheld. See Fair Hearing No. 17,191.

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