

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 17,501
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Appeal of)

INTRODUCTION

The petitioner appeals the onset date for his Vermont Health Access Program (VHAP) benefits determined by the Department of Prevention, Assistance, Transition, and Health Access (PATH).

FINDING OF FACT

1. The petitioner is a single man who is employed but had his hours cut down recently to the point that he was earning \$246 per week. His employer does not provide health insurance. A large portion of his paycheck is garnished to pay child support of \$131 per week.

2. On December 10, 2001, the petitioner came to the PATH district office in pain and said he needed to go to the emergency room. He was given an application for VHAP benefits which he filled out. He had his pay stubs with him but no one asked to see them. He was told that his application would be sent to Waterbury for review. No representations were made to the petitioner that he would be found eligible for VHAP or the

date that his coverage would take effect. The petitioner was not advised of the existence of an emergency assistance program and no application was taken from him at that time for such a program.

3. The petitioner went to the hospital, where it was discovered that he was passing kidney stones. He says he incurred an ER bill, a physician's bill, a bill for some medications and bills for radiological tests including 2-CT scans in connection with this problem. The petitioner originally testified that he incurred a bill on the day of the emergency of \$447. Two days later he incurred a bill of \$33.50 for medications and \$103.75 for other unspecified services. He later testified that he also had an X-ray for which he was charged \$130 and 2 CT scans which were \$689 each. The petitioner produced no documentation of these bills. It is not possible from his testimony to conclude which of these amounts was incurred as part of the initial emergency treatment and which was subsequently incurred in the course of continued treatment.

4. The petitioner was mailed a notice on December 14, 2001 stating that he had been found eligible for VHAP as of December 13, 2001, the day the application was received in Waterbury. The petitioner found out from talking with a

friend that a decision could have been made on his VHAP application in the district office if he had also filed a request for Food Stamps. He later did file a request for Food Stamps and was found eligible. The petitioner claims the Department should have told him to file for Food Stamps at that time so his VHAP eligibility could have been determined that day in the district office.

5. The Department does not dispute that the worker could have reviewed his eligibility on the day he came in at the district office if he had applied for some other benefit administered in the district office. However, it says that the Department has thirty days to make such a decision and that there is no way to tell now if his application would have been reviewed by anyone that same day. Review on any given day depends both upon having all the necessary information as well as the availability of someone who has time and authority to review and grant benefits that day. There is no evidence that either of those elements was met.

6. Subsequent to the appeal in this matter, the Department agreed that it erred in not providing the petitioner a General Assistance application on December 10 for emergency medical treatment. PATH agreed that the petitioner would have been eligible for such assistance and that pursuant

to the GA regulations it would pay the physician's bill (if the physician is not on the staff of the hospital), the cost of medications he received from the hospital which were part of the emergency and any items "specifically required by either 33 V.S.A. § 2106 and the W.A.M. 2620".

7. The petitioner indicated that he was not satisfied with that offer. On March 7, 2002, the hearing officer wrote to the petitioner asking him to send dated bills detailing the services he received in connection with his emergency. The petitioner was given one week to provide this information but nothing has come forth in over two months.

ORDER

The decision of the Department is affirmed.

REASONS

An application for benefits under The Vermont Health Access Plan (VHAP) is begun with the submission of a signed and date-stamped application to either the Health Access Eligibility Unit (in Waterbury) or the local district office of PATH. Medicaid Manual (MM) 4002.1. Thereafter, the Department must make an eligibility decision "within 30 days"

of the date the application is received by either office. MM 4002.2

The petitioner is correct that a decision on his VHAP eligibility could have taken place on the day he filed it. However, PATH, under its own adopted regulations, has thirty days to make the decision. Eligibility begins on the date that the application is approved. M.M. 4002.3. The petitioner does not have any right under the VHAP regulations to claim eligibility on the date of application. The Department should be upheld on the onset date of the application as it is consistent with its regulations.

The VHAP program by the very nature of the thirty-day decision timeline is not an emergency program. However, PATH does have an emergency medical program known as General Assistance (GA). See Welfare Assistance Manual (WAM) 2600 et seq. That program would have required an immediate decision or assistance at the time of application and would have authorized in advance payment for certain emergency procedures.

PATH admits that this program should have been offered to the petitioner on the day that he appeared in the office and has offered its coverage to him now. The Department has essentially taken the position that it will cover under the GA

program only those expenses which required an up front payment or guarantee as an essential to alleviating the emergency. It would not pay for other expenses, such as a hospital bill, that might be billed later without advance guarantee or which could be waived under an indigent patient program.

The petitioner was asked for and was given ample time to provide information and documentation upon which the hearing officer and PATH could determine what was actually incurred and what payments were needed to guarantee service. As was noted above, the petitioner's testimony in this regard was confused and unreliable. The petitioner failed to provide any such information and, indeed, appears now to have abandoned his claim. In the absence of such information, it is not possible to tell whether PATH's offer under the General Assistance program regulations is correct or not. As such, the matter should be determined in favor of the Department due to the petitioner's failure to present evidence in support of his claim.

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