

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 17,538
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Appeal of)

INTRODUCTION

The petitioner appeals a decision by the Department of Prevention, Assistance, Transition, and Health Access (PATH) terminating her son from Vermont Health Assistance Program (VHAP) because he has insurance available to him through his college.

FINDINGS OF FACT

1. The petitioner and her husband have annual income of about \$20,000. They have three children as part of their household, two of whom are adults. (Another adult child lives outside of the household.) The petitioner, her husband and the two older children have been on the VHAP program for some time. The youngest child is insured through the Dr. Dynasaur program. Her husband's employer offers health insurance coverage to them but they do not purchase it because it is not affordable.

2. Last Fall, the petitioner's twenty-one-year-old son started his third year of college. He is on the work/study

program to pay part of his tuition. His parents have taken out loans to pay his tuition and make monthly payments of \$30/\$40 per month. In addition they had one loan on which they had to pay \$500 for four months.

3. The petitioner's son has insurance available to him through his college. The cost is \$198 per year.¹ The family did not buy the health insurance because they feel it is too expensive given their other current expenses. They also rejected the insurance because it is not as comprehensive as VHAP and has many caps, deductibles and non-covered items.

4. On January 9, 2002, PATH notified the petitioner that her son's medical insurance would close on January 31, 2002 because he has student insurance available to him.

5. The petitioner says that this son has received VHAP through his first two years of college as did his two older siblings when they were in college. The Department says that the former eligibility for her son (and presumably the other children) was in error. When his student status was noticed, the rule had to be applied.

6. The plan offered to her son by the college covers hospital, physician services and medications for one accident

and one sickness up to \$5,000. It also covers outpatient benefits up to \$500 per illness at a rate of 80 percent after a \$25 deductible per visit. The policy includes ambulance, removal of impacted and infected wisdom teeth with a \$500 cap per year and mammograms for women.

ORDER

The decision of the Department is affirmed.

REASONS

The Department of PATH has adopted a regulation as part of its VHAP program which limits participation to those who are not insured or who are underinsured. W.A.M. 4000. The Department has excluded from the definition of un- and underinsured and declared ineligible "students under the age of twenty-three enrolled in a program of an institution of higher education . . . if they have elected not to purchase health insurance covering both hospital and physician services offered by their educational institution". W.A.M. 4001.1.

The petitioner's son is a twenty-one year old who is enrolled in a college which offers health insurance covering

¹ The petitioner testified that the cost of the health insurance was \$360 per year but the brochure she provided on the coverage listed the premium

both hospital and physician services, although, to be sure, the coverage is not high. He has opted not to purchase that insurance. As such, he is excluded under the above regulation from receiving VHAP benefits.

PATH has argued in the past, and the Board has agreed, that this exclusion is rational because this kind of restriction allows PATH to cover the largest group of completely uninsured persons possible by excluding other persons who have reasonable access to some minimal level of insurance through the group insurance rates of an institution.

The petitioner raises some very thoughtful policy considerations with regard to this regulation. She points out that this regulation hits low-income families hard at a time of maximum financial stress, when their children are still in college. She also points out that the federal government recognizes that college attending children are still financially dependent on their parents by allowing income tax deductions for them and that the Department should recognize this dependency and the reality that these premium payments will have to come from the parents. She also argues that her husband was allowed to elect not to take his employer's insurance because of its expense but he was not penalized by

as \$198.00.

ineligibility for VHAP. Finally, she argues that this policy makes it harder for young people to get their educations which are the very means by which they will become able to assume full responsibility for their own medical expenses in the future.

The petitioner may be correct that PATH's policy is not always fair or wise but her arguments do not lead to a conclusion that the policy is illegal. It is important to point out, however, that the cost of a student policy is usually a few hundred dollars a year while the cost of an employer sponsored family policy is, in the experience of this tribunal, in the thousands per year. The Department has not required that this family pay thousands out of their own pockets to obtain health insurance through their employer but has required them to pay a smaller amount for the college coverage. There is a real difference between the two kinds of policies and it cannot be said that the Department has acted irrationally or illegally in making this distinction. As the Department has acted according to its legal regulations, the Board is bound to uphold its decision, even if it would have made a different choice in this matter. 3 V.S.A. § 3091(d), Fair Hearing Rule 17.

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