

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 17,696
)
Appeal of)

INTRODUCTION

The petitioner appeals a decision of the Department of Prevention, Assistance, Transition, and Health Access (PATH) terminating his Vermont Health Access Plan (VHAP) benefits based upon his purchase of private insurance.

FINDINGS OF FACT

1. The petitioner is the head of a three-person household including himself, his wife and his nine-month old daughter. The petitioner is originally from Vermont but has been living in Japan for some time. On the advice of his sister who lives in Vermont, he contacted the Department about applying for VHAP benefits before he left Japan and was provided with information by fax. He faxed back an application around December 3, 2001. He was told that it could take up to thirty days to approve the application.

2. The petitioner arrived in the United States on December 11, 2001. Unaware of whether his eligibility for VHAP had yet been determined and fearing a gap in coverage,

the petitioner purchased private health insurance covering hospital and physician services for himself and his wife for \$200 per month. He did not consult with PATH workers about this decision. The petitioner was found eligible for VHAP benefits on December 28, 2001.

3. In January of 2002, the petitioner began to work in a family business on commission. In six months he will be able to obtain employer-related health insurance.

4. At some point, the Department became aware that the petitioner had purchased this private insurance. The petitioner had stopped the insurance on his wife by the time of the Department's discovery to reduce the cost to \$100 per month. The Department notified the petitioner on March 11 of 2001 that he and his wife were no longer eligible for VHAP as of April 1, 2002 because he had other insurance and she had dropped her insurance. The child remained eligible for Dr. Dynasaur benefits.

5. The petitioner appealed that decision and he and his wife have continued to receive VHAP benefits. He is currently earning about \$500 per month but lives off an undisclosed amount of savings as well as his income.¹ His earnings are

¹ The VHAP program does not consider resources in deciding eligibility for services. W.A.M. 4001.8.

expected to increase considerably with experience as he works on commission. Although he dropped his wife's health insurance to save money, he presented no evidence that he could not afford to continue or resume health coverage for his wife.

ORDER

The decision of the Department is affirmed.

REASONS

The purpose of the VHAP program is to provide "expanded access to health care benefits for uninsured low-income Vermonters." W.A.M. § 4000. Under the regulations persons must be uninsured or underinsured to receive benefits. W.A.M. § 4001.2. "Uninsured" is defined as a person who "does not have other insurance that includes both hospital and physician services, and did not have such insurance within the 12 months prior to the month of application." W.A.M. § 4001.2. There is a waiver for persons who lost their insurance in the past twelve months due to loss of employment, death, divorce or loss of dependent status under a health insurance policy. W.A.M. 4001.2. The Board has held that federal law also requires that the waiver must also apply to persons who have

involuntarily lost or given up their insurance for any reason. See Fair Hearing No. 16,748 and No. 17,461.

The petitioner himself is clearly disqualified from receiving benefits under the above regulation because he currently has other health insurance. His wife does not have health insurance now but has had it in the last twelve months. In order to re-establish her eligibility for VHAP, she must show that she involuntarily lost or dropped the insurance she had. The petitioner has presented no evidence upon which this fact could be concluded. There is no question that the health insurance was dropped, not lost. There are no facts upon which it could be found that the petitioner was compelled to drop this insurance by forces outside of his control.

As the Department has acted within its own regulations in terminating the petitioner and his spouse from VHAP benefits, the Board is bound to uphold its decision. 3 V.S.A. § 3091(d), Fair Hearing Rule 17.

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