

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. 17,822  
 )  
Appeal of )

INTRODUCTION

The petitioner appeals a decision by the Department of Prevention, Assistance, Transition, and Health Access (PATH) finding that she is not eligible for the Vermont Health Access Plan (VHAP) based on the fact that she has had other insurance during the last twelve months.

FINDINGS OF FACT

1. The petitioner is a single mother who is employed as a waitress. She has a seventeen-year-old son who resides with her. She earns about \$1,720 per month but is offered no health insurance through her employment.

2. The petitioner had a COBRA policy through Vermont Blue Cross/Blue Shield as the ex-spouse of a policy holder. This insurance cost her about \$100 per month and paid for hospital and doctor's bills after deductibles and co-payments.

3. In February of 2001, the petitioner decided to leave Vermont and move temporarily to Arizona in order to investigate whether she would like to live in that state with

her boyfriend. Her son did not accompany her but rather moved into his father's home.

4. The petitioner lived in Arizona for about a year. After she was in Arizona for about six months, she was notified by Vermont Blue Cross that her insurance would be dropped because she was no longer living in Vermont. The petitioner decided to stay on in Arizona and purchased Blue Cross insurance in that state beginning August 1, 2001. That insurance was cancelled on November 1, 2001 allegedly because the petitioner did not pay the premiums. The petitioner disagrees with this assertion, saying that she never received the bills. However, the petitioner agrees that her return to Vermont would have prompted the cancellation of her health insurance in Arizona anyway.

5. When the petitioner returned to Vermont in February of this year, she tried to recover her Vermont Blue Cross insurance but was able to do so only at an increased rate of \$300 per month. She has contacted the Department of Banking and Insurance to contest that decision. On April 5, 2002, she applied for VHAP benefits for herself and her son who is living with her again.

6. On May 1, 2002 she was notified by PATH that her son would be covered by the Dr. Dynasaur program but that she

would not be eligible for VHAP because she had insurance in the last twelve months that was terminated for a reason "other than death, divorce, loss of job, or dropped from parents insurance policy." PATH takes the position that the petitioner will not be eligible for VHAP until November 1, 2002, the first anniversary of her loss of her prior insurance.

ORDER

The decision of PATH is affirmed.

REASONS

The Vermont Health Access Plan (VHAP) was created for the purpose of "providing expanded access to health care benefits for uninsured low-income Vermonters." W.A.M. § 4000. The state regulation in effect at the time of the petitioner's application and denial defining "uninsured" includes the following:

Uninsured or Underinsured

An individual meets this requirement if he/she does not qualify for Medicaid, 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. The requirement that the applicant not have had such insurance during this 12-month period is waived if the department has agreed to pay all costs

of insurance because it is found it is cost-effective to do so or if the individual lost access to employer-sponsored insurance during this period because of:

- (a) loss of employment, or
- (b) death or divorce, or
- (c) loss of eligibility for coverage as a dependent under a policy held by the individual's parent(s).

W.A.M. § 4001.2

This regulation was found to be illegal by the Board in Fair Hearing No. 16,748 because it did not include a provision exempting all persons who did not "voluntarily" drop insurance as required by its original waiver. Although this Board decision was reversed by the Secretary, PATH has recently revised the regulation to include in the definition of persons who are "uninsured", persons who lost employer-sponsored coverage, persons who lost college or university sponsored coverage, and the following group:

- (c) Exceptions related to loss of coverage for low-income applicants:

Individuals who had coverage under another health insurance plan within the 12 months before the month of application also meet this requirement if their household income, after allowable deductions, is at

or below 75 percent of the federal poverty guideline for households of the same size.

W.A.M. 4001.2(c)

Although the above regulation was not adopted until July 1, 2002, if the petitioner meets these provisions, she should receive the benefit of it since her request is for prospective benefits. The petitioner's income, by her report at the hearing, is now \$1,420 per week. After a \$90 standard expense deduction, the petitioner has \$1,330 in countable income. The poverty level for a two-person household is \$999. Seventy-five percent of that amount is \$749 per month. Therefore, the petitioner does not meet the new standard adopted to determine if coverage was lost due to inability to pay the premium.

The petitioner was given time to obtain legal assistance in order to present arguments regarding her eligibility under the new regulations or the "involuntary" standard set forth in Fair Hearing No. 16,748. However, after a month, she did not submit any further argument that she should be found by PATH to have "involuntarily" lost her insurance.

In the absence of any argument that the new regulation is invalid, it must be found that PATH acted correctly in her case because the petitioner did not show that she lost her insurance because she was no longer attached to an employer-

sponsored program, was no longer a student in a school that provides health insurance or was too impoverished to pay premiums any longer as required by the regulation.

Even if the petitioner had successfully argued that she is too impoverished to afford her new health insurance premiums, the facts in this case show that she had a quite affordable insurance policy in Vermont which she voluntarily gave up when she moved long-term out of the state. As the actions (her two moves) which led to the loss of her two insurance policies both appear to be entirely voluntary, she must suffer the disqualification period imposed by the regulations. The petitioner is encouraged to reapply in October of this year when this disqualification period is coming to an end.

# # #