

STATE OF VERMONT

HUMAN SERVICES BOARD

In re ) Fair Hearing No. 18,393  
 )  
Appeal of )

INTRODUCTION

The petitioner appeals a decision by the Department of Prevention, Assistance, Transition, and Health Access (PATH) denying her Vermont Health Access Program (VHAP) benefits because she will not apply for unemployment benefits.

FINDINGS OF FACT

1. The petitioner works in the mental health field. Most recently she was working thirty hours per week at her job and received health benefits as part of her employment. She chose to leave this position and to work on a per diem basis for the same employer. Under this new arrangement, the petitioner works many fewer hours and no longer gets health insurance. The petitioner changed the terms of her employment because she was "burned out". She is currently looking for another job.

2. The petitioner applied for VHAP insurance benefits late last winter. She was told that as a condition of eligibility she had to apply for unemployment compensation.

The petitioner was unwilling to take that step and was denied eligibility for benefits.

3. The petitioner wants to be excused from applying for these benefits because she feels that doing so will alienate her employer from whom she needs references to obtain new employment. She also feels it would be morally wrong to try to collect money at her employer's expense when she was the one who caused the unemployment. The petitioner asserts that in any event she would not be eligible for such benefits because she left her full-time employment. In addition, she believes that any amount she could receive from unemployment compensation would still put her under the guidelines for VHAP eligibility.

ORDER

The Department's decision is affirmed.

REASONS

The VHAP program is a federal and state partnership program intended to assist low-income persons who cannot afford their own health insurance. VHAP 4000. Eligibility for the program is based on financial need and has income limits. VHAP 4001.8. Regulations adopted by PATH in the

program require that persons seek all income available to them before eligibility can be determined:

. . .

An individual must take all necessary steps to obtain any annuities, pensions, retirement, disability benefits or other income to which he or she may be entitled, unless he or she can show good cause for not doing so. Annuities, pensions, retirement and disability benefits include but are not limited to, veterans compensation and pensions; Old Age, Survivors, and Disability Insurance (OASDI) benefits; railroad retirement benefits; and unemployment compensation. Individuals are not required to apply for cash assistance programs such as SSI/AABD or ANFC.

VHAP 4001.8 (Emphasis supplied)

Under the above regulation, the petitioner is required to apply for unemployment compensation unless she can show "good cause" for not doing so. Speculation that she might not be eligible for the benefits or might not be eligible for enough benefits to disqualify her from the VHAP program do not constitute "good cause." Her eligibility for and the amount of benefits can only be determined by the Department of Employment and Training (DET) which administers those benefits. The regulations require her to apply and get a determination from DET before her eligibility is determined for VHAP benefits.

The potential impact of the petitioner's application on her employer also does not constitute "good cause." It could

in truth be said that most, if not all, employers would prefer not to be taxed for unemployment claims by their employees. If this were "good cause" for not making an application, then most VHAP applicants would have "good cause" for not applying for DET benefits and the requirement in the regulation would be nullified. If, as the petitioner believes, she is not eligible for such benefits, she should have little to lose by making such an application. Furthermore, since she is still on good terms with her employer, she could certainly explain to the employer why she had to go through the motions of applying for unemployment benefits in order to salvage her relationship and references.

As PATH has followed its regulation in requiring this application, the Board should uphold its decision denying the petitioner for refusing to meet the requirements for VHAP. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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