

petitioner filed an appeal received by the Board on June 10, 2005.

ORDER

The Department's decision is affirmed.

REASONS

In response to a legislative directive (Act 66 of 2003) to enact cost-savings measures designed to sustain the public health care assistance programs, the Department adopted regulations establishing monthly "premiums" to be paid prospectively by VHAP recipients beginning on January 1, 2004. VHAP 4001.91, Bulletin No. 03-17F. Unfortunately, the regulations require that "coverage shall be terminated if an individual does not pay the required program fee by the billing deadline". VHAP 4001.91. In this case there is no dispute that the petitioner did not pay her program fee by the February 28, 2005 deadline and that she was duly and timely notified by the Department of the closure of her benefits as of that date. There is also no dispute that the Department reinstated her benefits effective the same date it received her program fee—March 9, 2005. The regulations make no provisions for retroactive reinstatement of coverage after a closure for nonpayment of a premium. Inasmuch as the

Department's decision in this matter was in accord with the pertinent regulations the Board is bound to affirm.¹ 3

V.S.A. § 3091(d), Fair Hearing Rule 17.

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¹At the hearing in this matter, held by phone on September 8, 2005, the petitioner raised for the first time a claim that her premium payment for March 2005 be prorated to reflect the fact that she did not receive VHAP coverage for that entire month. It is unclear, however, whether the Department considered her March 9 payment to be the premium due for March or April 2005. If it was the latter, it is possible that the petitioner received "free" VHAP coverage from March 9-31, 2005. At this time, the petitioner is free to request from the Department the return of any portion of any premium she believes constituted an overpayment on her part. If the Department denies her request she can request a separate fair hearing on this issue.