

QA

10/5/2017

[REDACTED]
APPELLANT
v.
MARYLAND HEALTH
BENEFIT EXCHANGE

* BEFORE JEROME WOODS, II
* AN ADMINISTRATIVE LAW JUDGE
* OF THE MARYLAND OFFICE OF
* ADMINISTRATIVE HEARINGS
* OAH No.: MHBE-[REDACTED]-01A-17-22831

* * * * *

DECISION

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STATEMENT OF THE CASE

[REDACTED] (Appellant) applied for assistance through the Maryland Health Benefit Exchange (MHBE). The MHBE determined that the Appellant was eligible for an Advanced Premium Tax Credit (APTC) and she enrolled in a Qualified Health Plan (QHP) through [REDACTED] \$2,500.00, provided by [REDACTED]. On April 21, 2017, the Appellant contacted Maryland Health Connection (MHC), the Health Insurance Marketplace operated by the MHBE, to request termination of her health plan, explaining that she did not understand why she was re-enrolled in the program. The MHBE terminated the Appellant's QHP effective May 31, 2017. The Appellant subsequently contacted the MHC and indicated that she erroneously terminated her coverage. On July 24, 2017, the Appellant filed an appeal of the MHBE's determination regarding her termination of coverage.

On September 14, 2017, I held a hearing at the office of the local department of social services in [REDACTED] Maryland. 45 C.F.R. § 155.505 (2016).¹ Wanda Oliver, Appeals Coordinator, represented the MHBE. The Appellant represented herself.

Procedure in this case is governed by the Administrative Procedure Act, the MHBE's procedures for Fair Hearings of Individual Exchange Eligibility Determinations, the Rules of Procedure of the Office of Administrative Hearings (OAH), and the federal regulations for Appeals of Eligibility Determinations for Exchange Participation and Insurance Affordability Programs. Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2014 & Supp. 2016); Code of Maryland Regulations (COMAR) 14.35.01.01; COMAR 14.35.11; COMAR 28.02.01; and 45 C.F.R. §§ 155.500 through 155.555 (2016).

ISSUE

Did the MHBE properly terminate the Appellant's Qualified Health Plan?

SUMMARY OF THE EVIDENCE

Exhibits

I admitted the following documents on behalf of the MHBE:

Ex. 1 – Summary, August 8, 2017 with attachments:

- Application information, printed, October 1, 2016
- Renewal Notice, October 13, 2017
- Termination of Exchange Enrollment or Coverage excerpt, 45 C.F.R. § 155.430

The Appellant did not offer any documents for admission into evidence.

Testimony

Ms. Oliver testified and presented evidence on behalf of the MHBE.

The Appellant testified on her own behalf.

¹ C.F.R. is an abbreviation for Code of Federal Regulations.

FINDINGS OF FACT

I find the following facts by a preponderance of the evidence:

1. The MHBE determined that the Appellant was eligible for an APTC of \$316.00 monthly, and the Appellant was enrolled in a [REDACTED] plan for the coverage period of January 1, 2017 through December 31, 2017.
2. The MHC utilizes a website whereby covered participants are able to access their accounts, make queries and perform various functions.
3. On April 21, 2017, the Appellant contacted the MHC via telephone and notified the agency that she was cancelling her QHP.
4. The MHBE terminated the Appellant's QHP effective May 31, 2017.
5. The Appellant confirmed with the MHC representative that she understood that May 31, 2017 was the date of effective cancellation.

DISCUSSION

In accordance with the Patient Protection and Affordable Care Act,² Maryland created the MHBE as an independent unit of State government. Md. Code Ann., Ins. § 31-102 (Supp. 2016). The MHBE's purpose is, in part, to assist individuals in accessing public programs such as Medicaid, premium tax credits, and cost-sharing reductions. Md. Code Ann., Ins. § 31-102(c)(4) (Supp. 2016). The present case raises the question regarding the termination of QHP benefits when the Appellant requests termination of the insurance coverage. With regard to termination of exchange enrollment or coverage, the regulations in pertinent part provide:

- (a) *General requirements.* The Exchange must determine the form and manner in which enrollment in a QHP through the Exchange may be terminated.

² The Patient Protection and Affordable Care Act of 2010, Pub. L. No. 111-148, 124 Stat. 119, *amended by* the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152, 124 Stat. 1029, *amended by* the Three Percent Withholding Repeal and Job Creation Act, Pub. L. No. 112-56, 125 Stat. 771 (2011) (codified as amended in scattered sections of Titles 26 and 42 of the United States Code Annotated (U.S.C.A.)).

(b) *Termination events -- (1) Enrollee-initiated terminations.* (i) The Exchange must permit an enrollee to terminate his or her coverage or enrollment in a QHP through the exchange, including as a result of the enrollee obtaining other minimum essential coverage. To the extent the enrollee has the right to terminate the coverage under applicable State laws, including "free look" cancellation laws, the enrollee may do so, in accordance with such laws.

...

(iv) The Exchange must permit an enrollee to retroactively terminate or cancel his or her coverage or enrollment in a QHP in the following circumstances:

(A) The enrollee demonstrates to the Exchange that he or she attempted to terminate his or her coverage or enrollment in a QHP and experienced a technical error that did not allow the enrollee to terminate his or her coverage or enrollment through the Exchange, and requests retroactive termination within 60 days after he or she discovered the technical error.

(B) The enrollee demonstrates to the Exchange that his or her enrollment in a QHP through the Exchange was unintentional, inadvertent, or erroneous and was the result of the error or misconduct of an officer, employee, or agent of the Exchange or HHS, its instrumentalities, or a non-Exchange entity providing enrollment assistance or conducting enrollment activities. Such enrollee must request cancellation within 60 days of discovering the unintentional, inadvertent, or erroneous enrollment. For purposes of this paragraph (b)(1)(iv)(B), misconduct includes the failure to comply with applicable standards under this part, part 156 of this subchapter, or other applicable Federal or State requirements as determined by the Exchange.

(C) The enrollee demonstrates to the Exchange that he or she was enrolled in a QHP without his or her knowledge or consent by any third party, including third parties who have no connection with the Exchange, and requests cancellation within 60 days of discovering of the enrollment.

...

(d) *Effective dates for termination of coverage or enrollment.* (1) For purposes of this section—

(i) Reasonable notice is defined as at least fourteen days before the requested effective date of termination; and

(ii) Changes in eligibility for advance payments of the premium tax credit and cost sharing reductions, including terminations, must adhere to the effective dates specified in § 155.330(f).

(2) In the case of a termination in accordance with paragraph (b)(1) of this section, the last day of enrollment through the Exchange is—

(i) The termination date specified by the enrollee, if the enrollee provides reasonable notice;

(ii) Fourteen days after the termination is requested by the enrollee, if the enrollee does not provide reasonable notice; or

(iii) On a date on or after the date on which the termination is requested by the enrollee, subject to the determination of the enrollee's QHP issuer, if the

enrollee's QHP issuer agrees to effectuate termination in fewer than fourteen days, and the enrollee requests an earlier termination effective date. . . .

45 C.F.R. § 155.430(a)-(b), (d) (2016).³

The Appellant reenrolled in a QHP through the MHBE for the period of January 1, 2017 through December 31, 2017. On April 21, 2017, the Appellant cancelled her coverage.

Ms. Oliver testified that the MHC representative discussed with the Appellant that the Appellant's QHP would be cancelled effective May 31, 2017. The MHC did this because the Appellant called the MHC on April 21, 2017 and unequivocally stated that she wanted her coverage cancelled. The cancellation effective date was explained to the Appellant and the Appellant agreed that she understood the date of cancellation.

The Appellant testified that she thought she was cancelling her APTC of \$316.00 and not her insurance coverage.

While I sympathize with the Appellant, a review of the recorded telephone conversation with the Appellant and the MHC representative clearly indicates that the Appellant purposefully and intently cancelled her insurance coverage. The Appellant provided her social security number, address, phone number and confirmed that she was the only one on the plan. The Appellant agreed several times during the conversation with the MHC representative that she was cancelling her insurance coverage. Based on the facts of this case, I conclude that the MHBE properly terminated the Appellant's QHP benefits, because she requested it.

CONCLUSION OF LAW

Based on the foregoing Findings of Fact and Discussion, I conclude as a matter of law that the MHBE properly terminated the Appellant's Qualified Health Plan. 45 C.F.R. § 155.430(d)(2)(ii) (2016).

³ All references to the Code of Federal Regulations are to the 2016 Volume.

ORDER

I **ORDER** that the decision of the Maryland Health Benefit Exchange to terminate the Appellant's Qualified Health Plan is **AFFIRMED**.

October 5, 2017

Date Decision Mailed

Signature Appears on Original

Jerome Woods, II
Administrative Law Judge

JW/cj
#170185

REVIEW RIGHTS

This is the final decision of the Maryland Health Benefit Exchange. A party aggrieved by this final decision may, within thirty (30) days of the date of this decision, file a petition for judicial review with the Circuit Court for Baltimore City, if any party resides in Baltimore City or has a principal place of business there, or with the circuit court for the county in which any party resides or has a principal place of business. Md. Code Ann., State Gov't § 10-222 (Supp. 2016); Md. Rules 7-201 through 7-210. A separate petition may be filed with the court to waive filing fees and costs on the ground of indigence. Md. Rule 1-325. If you do not wish to file a petition for judicial review with the circuit court, you may choose to file an appeal request with the United States Department of Health and Human Services within thirty (30) days of the date of this decision, at Health Insurance Marketplace, 465 Industrial Boulevard, London, KY 40750-0061. 45 C.F.R. § 155.520(c) (2016). The Office of Administrative Hearings is not a party to any review process.

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