

STATE OF FLORIDA  
DIVISION OF ADMINISTRATIVE HEARINGS

ANGEL ORTIZ,

Petitioner,

vs.

Case No. 16-0759

DEPARTMENT OF MANAGEMENT  
SERVICES, DIVISION OF STATE  
GROUP INSURANCE,

Respondent.

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RECOMMENDED ORDER

Pursuant to notice, a final hearing in this cause was held by video teleconference between sites in St. Petersburg and Tallahassee, Florida, on April 13, 2016, before Linzie F. Bogan, Administrative Law Judge of the Division of Administrative Hearings.

APPEARANCES

For Petitioner: Angel L. Ortiz, pro se  
2361 Orangeside Road  
Palm Harbor, Florida 34683

For Respondent: Gavin D. Burgess, Esquire  
Department of Management Services  
Suite 160  
4050 Esplanade Way  
Tallahassee, Florida 32399-0950

STATEMENT OF THE ISSUE

Whether Petitioner's disabled dependent child is entitled to have his dental benefits continued after he has reached the age of 26.

PRELIMINARY STATEMENT

This dispute involves the termination of dental coverage for Angel Ortiz's (Petitioner) child (dependent) who has reached the age of 26. The Department of Management Services, Division of State Group Insurance (Respondent), terminated the dependent's dental coverage because Petitioner, prior to the dependent reaching age 26, which is the maximum age for dependent coverage, failed to submit to Respondent proof of his dependent's disability. After the dependent's dental coverage was terminated, Petitioner then sought to enroll his dependent into coverage outside the open-enrollment period. Respondent denied Petitioner's request for enrollment on the grounds that there was not a qualified status change (QSC)<sup>1/</sup> event that would allow a mid-year enrollment. On or about February 10, 2016, Respondent referred the matter to the Division of Administrative Hearings for a disputed-fact hearing.

At the hearing, Petitioner testified on his own behalf, and his wife, Mary Ortiz, also testified. Respondent offered testimony from Lindsay Lichti, Renee Webb, and Dewayne Purifoy.

Petitioner's Exhibit 1 was admitted into evidence. Respondent's Exhibits 1 through 7 were also admitted into evidence.

Neither party filed a transcript of the disputed-fact hearing. The parties did, however, each file a Proposed Recommended Order. The Proposed Recommended Orders have been considered in the preparation of this Recommended Order.

#### FINDINGS OF FACT

1. Respondent contracts with Humana/CompBenefits Company to provide dental benefits to employees of the State of Florida.

2. In 2014, Petitioner, his spouse, and his dependent child were members of Humana/CompBenefits Company's Network Plus Dental Plan (Humana Plan).

3. The Humana Plan provides coverage for a subscriber's dependent child through the calendar year in which the child reaches the maximum age of attainment.

4. Respondent handles eligibility issues regarding the Humana Plan and allows dependent child coverage to continue through the end of the year in which the dependent turns 26 years of age (the maximum age of attainment). The dental coverage for Petitioner's dependent terminated on January 1, 2015, due to the fact that the dependent turned 26 years of age in 2014.

5. According to the Humana Plan, dental coverage for a dependent older than 26 years of age may, under certain circumstances, continue if the dependent is disabled. In order for dependent coverage to continue, proof of the dependent's disability must be submitted within 31 days of the dependent's maximum age of attainment, or by the end of the year in which the dependent turns 26 years of age. Petitioner did not submit any documentation regarding his dependent's disability until August 2015, which was approximately 10 months after his child's 26th birthday. Petitioner claims that he was unaware of the fact that his dependent's coverage terminated on January 1, 2015, and if he had known of the termination, he would have timely provided to Respondent documentation demonstrating his son's disability.

6. Employee health insurance benefits are administered by a private contractor, Northgate/Arinso, through an online system called People First.

7. The People First computer system automatically identifies which dependents will be ineligible for coverage during the upcoming policy year and mails notifications to members advising them that their benefits will be changing.

8. From October through November 2014, Northgate/Arinso sent Petitioner the following three notifications that his dependent child would not be enrolled in dental insurance

beginning January 1, 2015: the annual enrollment benefits statement; a COBRA package; and an annual enrollment confirmation.

9. The annual enrollment benefits statement is mailed before Open Enrollment and informs members what benefits they will have beginning January 1 of the upcoming year should they not make any benefit changes during open enrollment.

Northgate/Arinso mailed the annual enrollment benefits statement to Petitioner on October 4, 2014. A copy of the actual notice mailed to Petitioner was not produced, and Petitioner claimed he never received the annual enrollment benefits statement.

Respondent offered no proof to the contrary.

10. By correspondence dated October 3, 2014, and mailed to Petitioner at his address of record on November 8, 2014, Respondent provided Petitioner with his annual enrollment confirmation. The annual enrollment confirmation notice shows that only Petitioner's wife, and not his dependent child, would be enrolled in dental coverage beginning January 1, 2015.

11. On or about October 6, 2014, Northgate/Arinso also provided written notification to Petitioner of his rights to continue his dependent's dental coverage pursuant to the federal Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA). The COBRA package explains the process and costs associated with Petitioner's dependent child continuing dental coverage through

this option, and also informed Petitioner that his son's dental benefits would terminate on January 1, 2015. Petitioner did not elect COBRA coverage for his dependent.

12. The COBRA package was additional notice to Petitioner that there was a change happening to his existing dependent dental coverage.

13. The People First system tracks all interaction with members, including notes of telephone conversations with members, any documents submitted by the member, and mail that has been returned as undeliverable. When mail is returned as undeliverable, an entry is made in the People First notes. Neither the annual enrollment benefits statement, nor the annual enrollment confirmation statement or the COBRA package, were returned as undeliverable.

14. Respondent allows members to enroll in insurance benefits within 31 days of a QSC event and during open enrollment. At the time Petitioner sought to enroll his dependent child in August 2015, Petitioner did not experience a QSC event that would allow enrollment in the Humana Plan. Furthermore, because Petitioner's dependent reached the age of attainment in 2014, dependent coverage was no longer available during periods of open enrollment.

CONCLUSIONS OF LAW

15. The Division of Administrative Hearings has jurisdiction over the parties and subject matter of this proceeding. §§ 120.569 and 120.57(1), Fla. Stat. (2015).

16. Petitioner bears the burden of establishing by a preponderance of the evidence his entitlement to have his dependent reinstated to the dental plan. See Dep't of Banking & Fin., Div. of Sec. & Investor Prot. v. Osborne Stern and Co., 670 So. 2d 932, 934 (Fla. 1996); Young v. Dep't of Cmty. Aff., 625 So. 2d 831, 834 (Fla. 1993); Espinoza v. Dep't of Bus. & Prof'l Reg., 739 So. 2d 1250, 1251 (Fla. 3d DCA 1999); Fla. Dep't of Transp. v. J.W.C. Co., 396 So. 2d 778, 788 (Fla. 1st DCA 1981); and § 120.57(1)(j) ("Findings of fact shall be based upon a preponderance of the evidence, except in penal or licensure disciplinary proceedings or except as otherwise provided by statute . . . .").

17. A preponderance of the evidence is defined as "the greater weight of the evidence" or evidence that "more likely than not" tends to prove a certain proposition. Gross v. Lyons, 763 So. 2d 276, 280 n.1 (Fla. 2000).

18. The Humana Plan allows a dependent with a disability to continue coverage provided the insured provides timely documentation that the dependent is disabled. § 636.022, Fla. Stat. (2015). Petitioner did not inform People First that his


child was disabled until August 25, 2015, which was approximately 10 months after Petitioner's dependent turned the maximum age as allowed by Respondent, and nine months after coverage terminated. Petitioner's notice to Respondent regarding his dependent's disability was not timely submitted. Furthermore, Petitioner received reasonable notice regarding the changes to dental coverage for his dependent, but failed to take appropriate action with respect thereto.

19. Petitioner did not meet his burden of demonstrating that dependent child coverage should continue.

RECOMMENDATION

Based on the foregoing Findings of Fact and Conclusions of Law, it is RECOMMENDED that Respondent, Department of Management Services, enter a final order denying Petitioner, Angel Ortiz's, request to have his dependent added to Petitioner's dental plan.

DONE AND ENTERED this 9th day of May, 2016, in Tallahassee, Leon County, Florida.



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LINZIE F. BOGAN  
Administrative Law Judge  
Division of Administrative Hearings  
The DeSoto Building  
1230 Apalachee Parkway  
Tallahassee, Florida 32399-3060  
(850) 488-9675  
Fax Filing (850) 921-6847  
www.doah.state.fl.us



Filed with the Clerk of the  
Division of Administrative Hearings  
this 9th day of May, 2016.

ENDNOTE

<sup>1/</sup> A member may enroll in mid-year coverage if he experiences a QSC event, which is defined in Florida Administrative Code Rule 60P-1.003(17) as a "change in employment status, for subscriber or spouse, family status or significant change in health coverage of the employee or spouse attributable to the spouse's employment."

COPIES FURNISHED:

Gavin D. Burgess, Esquire  
Department of Management Services  
4050 Esplanade Way, Suite 160  
Tallahassee, Florida 32399-0950  
(eServed)

Angel L. Ortiz  
2361 Orangeside Road  
Palm Harbor, Florida 34683

J. Andrew Atkinson, General Counsel  
Office of the General Counsel  
Department of Management Services  
4050 Esplanade Way, Suite 160  
Tallahassee, Florida 32399-0950  
(eServed)

NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.