



Rhode Island Executive Office of Health and Human Services
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August 26, 2015

Docket # 15-1121
Hearing Date: July 7, 2015



ADMINISTRATIVE HEARING DECISION

The Administrative Hearing that you requested has been decided against you. During the course of the proceeding, the following issue(s) and Agency regulation(s) were the matters before the hearing:

EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES (EOHHS) MEDICAID CODE OF ADMINISTRATIVE RULES (MCAR)

SECTION: 0110 COMPLAINTS AND HEARINGS 0110.20.05 THE APPEAL PROCESS; 0110.25 LEGAL BASIS FOR APPEALS AND/OR HEARINGS; 0110.30 DEFINITION OF A HEARING; 0110.50 THE APPEALS OFFICER

The facts of your case, the Agency regulations, and the complete administrative decision made in this matter follow. Your rights to judicial review of this decision are found on the last page of this decision.

Copies of this decision have been sent to the following: You (the Appellant) and Health Source RI (HSRI) Agency representatives: Noah Zimmerman, and Lindsay Lang.

Present at the hearing were: You (the Appellant), and HSRI representative Noah Zimmerman.

ISSUE: Should the appellant be allowed retroactive assessment and reimbursement for premiums charged during the months of February through May 2015?

RIHBE RULES AND REGULATIONS:

Please see the attached APPENDIX for pertinent excerpts from the Rhode Island Executive Office of Health and Human Services Medicaid Code of Administrative Rules (MCAR).

APPEAL RIGHTS:

Please see attached NOTICE OF APPELLATE RIGHTS at the end of this decision.

DISCUSSION OF THE EVIDENCE:**The Health Source Rhode Island (HSRI) representative testified:**

- Per HSRI policy we want customers to notify us of changes in income within 10 days because the customer's eligibility for tax benefits and other cost sharing reductions might change; and, to insure that the billing cycles and bills of the carrier and the notices are up to date.
- In this case, there is a question as to whether or not the customer alerted us that there was a change in income.
- At this point, it is unclear if the calls in February and March 2015 would indicate the customer attempted to notify the representative, so that the calls would need to be explored.
- If there are no such phone calls, then the current state of affairs would stand.
- They paid \$241.10 from January through April 2015; and then there was a May 22nd payment of \$75.96, and again in May 28th for \$209.23;
- The payment made in June was \$44.09 going forward.
- If we realized their income was lower going back, then we would have to rectify their tax credits while we were rectifying the premiums.
- We are willing to summarize and send copies of any phone calls which might have taken place in February or March between the appellant and HSRI, and in which the appellant indicated a change of income.

The appellant testified:

- She appreciates HSRI exploring the phone logs.
- The family has been behind here and there and they had made a lot of phone calls to make payments and ask for extensions so they would not get shut off.
- Their income changed and she probably did not communicate that as clearly as she could have.

- In May, HSRI helped us to adjust our income.
- We are not disputing any payments, as we were behind in May and paid twice.
- Now it's rectified, and they do appreciate if it could be looked at going back to see if she did make the phone calls.
- The Department of Labor and Training document shows the last day of her husband's employment.
- She wrote a letter dated May 13th to HSRI, and she is happy going forward that things were rectified as of June 1st.
- She believes that as of June 1st, once things got rectified, it was \$44.09 based on her husband's unemployment income.
- They had no lapses in coverage, and are not disputing the amounts paid prior to June 1st.
- HSRI encouraged an appeal to obtain any monies retroactively based on her husband's last day of employment.

SUMMARY OF TAPES SUBMITTED POST HEARING:

February 5, 2015

- Appellant contacted HSRI regarding the delay of her 2014 1095A form. She is given a referral phone number for additional information, and told she should receive a copy immediately in the mail.

February 11, 2015

- Appellant contacts HSRI to determine where 1095A is, and is given some information. She is told that information should be showing on line as it should have been uploaded.

February 12, 2015

- Appellant contacts HSRI a third time regarding 1095A forms and representative apologizes and gives all information needed to file taxes the following day. He is unclear why it is not showing on line, but summarizes each month of coverage including premiums, and APTC's, and SLCSPP's (silver lowest cost sharing plan numbers).

April 10, 2015

- The appellant contacts HSRI to make March payment (for April) and April payments. She asks if she can make just March payment (for April) and then by the 23rd, if she could

make the payment due for May. She pays for the one month over the phone.

FINDINGS OF FACT:

- A Report Change Reminder Notice dated April 24, 2015 informed the appellant she must report changes in her household within 10 days of the notice.
- In a May 13, 2015 letter to HSRI, the appellant identified financial changes to the family's income which began on February 4, 2015 when her husband was laid off.
- The appellant submitted an appeal on May 13, 2015.
- A hearing was convened on July 7, 2015.
- The record of hearing was held open until July 21, 2015.
- Additional evidence was submitted.

CONCLUSION:

The issue to be decided is whether the appellant should be allowed retroactive assessment and reimbursement for premiums charged during the months of February through May 2015?

There is no dispute that effective June 1, 2015 the appellant was reassessed for premium coverage as a result of her notification to HSRI of a change of financial circumstances. There is no dispute that as a result of the calculations, the premiums reduced almost \$200 per month. There is no dispute that the appellant received a general Reminder notice in April 2015 which reminded her in part, to report changes in income or family size which could make her eligible for better coverage or lower prices.

The Agency argues that the appellant did not notify HSRI prior to May 13, 2015 of the change in financial circumstances which might have affected her recalculation of the premiums which later resulted in a substantial monthly reduction for the appellant. They further present that the April 24, 2015 Reminder notice was a reminder to report changes in income within 10 days of the notice-which they testified, she did not do.

The appellant testified and presented evidence that her husband became unemployed as of February 4, 2015, and his weekly income reduced substantially. She further submitted into evidence, a letter dated May 13, 2015 sent to HSRI, which summarized the family's financial situation, and which was used to reconfigure their premium payments beginning on June 1, 2015. The appellant testified that she had been having difficulties paying her ongoing premium bills and called HSRI for several extensions. She opined that she may not have communicated her financial circumstances clearly to

the HSRI representatives in February and March, but she requested an exploration of her calls, to determine whether she had informed them earlier than May, of her situation.

Per regulations, the appellant has the right to both protest her health benefits, as well as a right to a response by the Agency. The appellant testified that she believed she had made efforts to inform HSRI of the changes, and requested the Agency explore this possibility.

Post hearing, four calls were made to HSRI in February and March 2015. Exploration of the calls revealed that three of the calls were requests for the 1095A tax form the appellant needed in order to file her taxes. The fourth call on April 10th was a call to pay her overdue premium for April, and to request delay of payment of her premium for May. She paid the one payment over the phone. The appellant did not discuss or request any change in premiums or coverage, nor did she notify the Agency during any of the calls, of her husband's change of income which took place in February. Additionally, as cited by the Agency, the notice of April 24th informed the appellant that changes in income could "make you eligible for better coverage or lower prices", and it identified that the appellant was required to report those changes within 10 days of the change. There is no supporting evidence that the appellant reported a change in the family's income prior to May 13th, which then allowed recalculations which took effect immediately the following month of June.

Due process-a constitutional right, was served in that the appellant, through timely notice was informed of the necessity to report a change in income. Regulations also dictate that it is incumbent on the appeals officer to bring out all relevant facts bearing on the individual's situation at the time of the agency's action or inaction. In this case new evidence presented post hearing did not support the appellant's contention that she had informed, or tried to inform HSRI of her family's change of income until May 2015.

In summary, the appellant's husband became unemployed in February of 2015, an event which changed the household's finances. Although the appellant contacted HSRI several times in February and March, she did not discuss the change in circumstances required by the Agency, and necessary to effectuate a change in her premiums. The change was not reported to HSRI until mid-May, and changes were correctly implemented as of June 1, 2015. The appellant is therefore unable to obtain retroactive reassessment which would most likely have resulted in a reduction in premium charges beginning in February or March 2015.

After a careful review of the Agency's regulations, as well as the credible testimony and evidence submitted, the Appeals Officer finds that the appellant's request for relief is therefore denied.

Karen Walsh
Appeals Officer

APPENDIX

0110.20.05 THE APPEAL PROCESS

REV: 08/2013

The intent of the appeal process is to protect a person or family's right to assistance, social services, child support services, health insurance benefits, or food assistance.

While the appeals process is proceeding, an appeal generally can be resolved through a discussion with the staff member who made the decision or, for MAGI Medicaid or programs administered by the RIHBE, through a discussion with a representative of the contact center administered by the RIHBE. If a claimant determines it is necessary to go beyond that staff member or representative to be assured that s/he is receiving equitable treatment, s/he must be informed of the following alternative provisions for expressing his/her complaint:

- A discussion of the disputed issue(s) can be arranged for the individual with the appropriate agency representative and his/her supervisor in the district or regional office ("supervisory conference"); or,

- If the individual prefers, and the issue relates to programs other than those administered by the RIHBE, then instead of the supervisory conference, or following it, an 'Adjustment Conference' can be arranged with the regional manager while the appeals process is proceeding. This is an informal hearing in which an individual has an opportunity to state his/her dissatisfaction with agency action. The state agency representative presents the facts upon which action was based. The regional manager determines whether or not the staff decision was made in accordance with state agency policy; or

- Since the individual has a right to request and receive a hearing unconditionally, s/he can proceed directly to a full hearing review of his/her complaint.

If the complaint or appeal relates to the MAGI Medicaid or any program administered by the RIHBE, then, in addition to the informal channels discussed above, an appellant shall have the opportunity to request informal resolution of the appeal prior to a hearing by contacting the contact center administered by the RIHBE, or a representative of the contact center administered by the RIHBE may contact the appellant and offer to discuss the issue if the appellant agrees.

- The appellant's right to a hearing shall be preserved if the appellant is dissatisfied with the outcome of the informal resolution process.

- The informal resolution process is voluntary and neither an appellant's participation nor nonparticipation in the informal resolution process shall affect the right to a hearing.

- The informal resolution process shall not delay the timeline for a hearing.
 - During the informal resolution process, the representative shall try to resolve the issue through a review of case documents, allowing the appellant to submit further documentation, and submitting updated information or providing further explanation of previously submitted documents.
- If an appellant is dissatisfied with the informal resolution, all additional submitted documentation shall be included in the documentation sent to hearing.
- For programs administered by BHDDH, the informal resolution process shall be as contained in the *Rules and Regulations Governing the Practices and Procedures Before the Rhode Island Department of Mental Health, Retardation, and Hospitals* last amended in February 2002.
- For programs administered by DCYF, the informal resolution process shall be as contained in *Complaints and Hearings* last amended in January 2000.

0110.25 LEGAL BASIS FOR APPEALS AND/OR HEARINGS

REV: 08/2013

Procedures are available for applicants and/or recipients who are aggrieved because of a state agency decision or delay in making such a decision. Entitlements to appeals, reasonable notice and opportunity for a fair hearing, are provided by:

- o Title 40 of the General Laws of Rhode Island, as amended;
- o Rhode Island Works Program (RIW, as authorized under Title IV-A of the Social Security Act;
- o Medicaid Program, as authorized under Title XIX of the Social Security Act and 42 C.F.R. 431.200 et seq.;

General Provisions of the OHHS Code of Rules 10

- o Supplemental Security Income (SSI) Program, as authorized under Title XVI of the Social Security Act;
- o Social Services Program, as authorized under Title XX of the Social Security Act;
- o The Vocational Rehabilitation Act of 1972, as amended; and
- o The Food Stamp Act of 1977, as amended.
- o Title 15 of the R.I. General Laws;
- o Chapter 42-7.2 of the Rhode Island General Laws
- o Section 1411 of the ACA and 45 C.F.R. Part 155 Subpart F and section 155.740 of Subpart H;
- o Chapter 42-35 of the Rhode Island General Laws, as amended.

0110.30 DEFINITION OF A HEARING

REV:08/1987

A hearing is an opportunity provided by the agency for responding to an appeal. It is an instrument by which a dissatisfied individual may assert his/her right to financial assistance,

medical assistance, health insurance, social services, and/or food assistance; and, to secure in an administrative proceeding before an impartial appeals officer, equity of treatment under state law and policy and the agency's standards and procedures.

An opportunity for a hearing is granted to an applicant/recipient or his/her designated representative, when:

- His/Her claim for assistance, social services, or access to a program administered by the RIHBE is denied,
- Is not acted upon with reasonable promptness, or
- S/He is aggrieved by any other agency action resulting in suspension, reduction, discontinuance, or termination of assistance, social services, or access to a program administered by the RIHBE.

A hearing need not be granted:

- If a change in benefits is due to an automatic adjustment required by either state or federal law for classes of recipients, unless the reason for an individual appeal is a challenge of the correctness of the computation of his/her assistance payment or another aspect of the application of the automatic adjustment.

0110.50 THE APPEALS OFFICER

REV: 08/2013

The hearing shall be convened by an impartial designee of the Secretary of EOHHS. No person who has participated in the pertinent matter under review shall be eligible to serve as an appeals officer.

The appeals officer shall endeavor to bring out all relevant facts bearing on the individual's situation at the time of the questioned state agency action or inaction and on state agency policies pertinent to the issue. The hearing shall not be closed until the appeals officer is satisfied that all interested parties have had the opportunity to present the facts needed for a decision.

NOTICE OF APPELLATE RIGHTS

This Final Order constitutes a final order of the Department of Human Services pursuant to RI General Laws §42-35-12. Pursuant to RI General Laws §42-35-15, a final order may be appealed to the Superior Court sitting in and for the County of Providence within thirty (30) days of the mailing date of this decision. Such appeal, if taken, must be completed by filing a petition for review in Superior Court. The filing of the complaint does not itself stay enforcement of this order. The agency may grant, or the reviewing court may order, a stay upon the appropriate terms.

This hearing decision constitutes a final order pursuant to RI General Laws §42-35-12. An appellant may seek judicial review to the extent it is available by law. 45 CFR 155.520 grants appellants who disagree with the decision of a State Exchange appeals entity, the ability to appeal to the U.S. Department of Health And Human Services (HHS) appeals entity within thirty (30) days of the mailing date of this decision. The act of filing an appeal with HHS does not prevent or delay the enforcement of this final order.

You can file an appeal with HHS at <https://www.healthcare.gov/downloads/marketplace-appeal-request-form-a.pdf> or by calling 1-800-318-2596.