

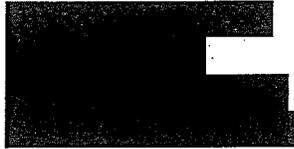


Rhode Island Executive Office of Health and Human Services
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March 4, 2015

Docket # 14-2108

Hearing Date: January 20, 2015



ADMINISTRATIVE HEARING DECISION

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

RULES AND REGULATIONS PERTAINING TO THE RHODE ISLAND HEALTH BENEFITS EXCHANGE (RIHBE)

SECTION: 4.0 Initial Open Enrollment, Annual Open Enrollment, and Special Enrollment Periods

SECTION 4.1 In General

SECTION 4.6 Special Enrollment Periods

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), your daughter/authorized representative, DHS representative Gail Scudieri, and HSRI representative Noah Zimmerman.

ISSUE: Should the appellant receive retroactive health coverage as of October 1, 2014?

RIHBE RULES AND REGULATIONS:

Please see the attached APPENDIX for pertinent excerpts from the Rules and Regulations Pertaining to the Rhode Island Health Benefits Exchange

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:**

- There was a Medicaid termination notice sent on September 16, 2014 and that termination was to take place on September 30, 2014.
- Because of that termination I believe that that would have entitled her (the appellant) to a special enrollment period.
- Under our policy the Exchange must provide special enrollment periods lasting 60 days for qualified individuals to enroll in or change from a qualified health plan as a result of one of the following-and a loss of coverage would be within that.
- So, if a qualified individual or their dependents loses minimal essential coverage, then because you did lose coverage you should be entitled to a special enrollment period.
- The trigger event is the date of the notice of de-certification, so you would have been eligible as of the eligibility end date of September 30th, which would have then made her eligible as of October 1, 2014.
- We are now working with the carrier, Blue Cross, to try and get retroactive coverage for October given the special enrollment period and given the information you were told when you called the HSRI hot line.
- We believe that the first payment made in October might have been used for November, as they did not bill again until the end of November (2014) for December payment.
- If she is found eligible for October retroactively she would still owe for the October premium.
- In the system currently she (the appellant) is listed as getting her correspondences through email, and it looked like they may have asked for emails.

The DHS representative testified:

- Their agency did not have a role to play in this decision.

The appellant and her daughter/representative testified:

- When she (the appellant) went to a doctor's appointment on October 3rd (2014) she found out she did not have coverage, and she called her daughter.
- We called HSRI on October 4th, and they said it looks like we need documentation.
- So, on Saturday the 5th, the daughter went in to HSRI with all the income information, rent receipts, and social security information, and they said she (the appellant) did not qualify for the Medicare but could qualify for another plan.
- We picked the Blue Cross at that time, and paid them, but she did not get coverage until the first of November.
- We are appealing for the month of October so she can get retroactive coverage.
- We had to pay again by the 23rd of November (2014).
- Prior to this time, when we first signed up during open enrollment(2013) my mother received all mail initially to her home before January 1st(2014).
- When they first opened the account during open enrollment, the daughter went to HSRI directly multiple times with several verifications in November 2013 which were requested via mail.
- We were told initially that we had insurance, she received her health insurance cards in the mail, but we never received anything else from January 1, 2014 on.
- She had health insurance so we never thought anything, because we had been told when we signed up, we would have to apply again in one year-which would have been October(2014).
- She does get all her other mail, as the daughter checks this almost daily, because she (the appellant) can't speak English. She never got anything from Health Source.
- Her mother does not have a computer.

- Recently, the daughter was asked us to give HSRI an email address, which she did, but she and her mother did not request email correspondence.
- The daughter rarely looks at her emails.
- Prior to October 5th (2014) which is when the daughter went back down to HSRI, there were no notices sent to the home; so, on October 5th the daughter had everything changed to her name, and she now gets all the bills and notices.

FINDINGS OF FACT:

- A September 16, 2014 Medicaid Termination Notice identified that the appellant would lose Medicaid coverage as of September 30, 2014.
- On October 5, 2014, within the appellant's allowed sixty day special enrollment period, the appellant applied for, chose a coverage plan, and paid for her Blue Cross/Blue Shield medical coverage through HSRI.
- An enrollment notice dated October 18, 2014 informed the appellant that her Blue Cross/Blue Shield health coverage would become effective as of November 1, 2014.
- The appellant filed a timely appeal on November 8, 2014.
- A hearing was held on January 20, 2015.
- The record of hearing was held open until February 17, 2015 for additional evidence.
- No additional evidence was submitted prior to the close of hearing.

CONCLUSION:

The issue to be decided is whether the appellant should receive retroactive health coverage as of October 1, 2014.

Regulations specific to the RI Health Benefit Exchange (RIHBE) identify that the Exchange shall provide special enrollment periods lasting a minimum of sixty days during which a qualified individual may enroll in a Qualified Health plan (QHP). The loss of minimal essential coverage is one such "triggering event" which would allow receipt of special enrollment consideration.

There is no dispute that the appellant's Medicaid coverage terminated, and that she signed up for continued medical coverage through a QHP, during a special enrollment period allowed her due to her loss of "minimal essential coverage."

The HSRI representative identified that a September 16, 2014 notice informed the appellant that her Medicaid termination would take place on September 30th. He opined that the Medicaid loss was a triggering event which would allow the appellant the opportunity to be allowed coverage as of the day following the date of de-certification of the previous coverage. The representative testified that the appellant lost coverage on September 30th, was then in a special enrollment period, and should have been allowed coverage as of October 1st if she signed up for coverage during her 60 day special enrollment period. On October 5, 2014, the appellant signed up for coverage within that period noted. Further exploration of policy asserts that the Exchange must ensure coverage is effective on the first day of the following month in which the individual loses coverage.

The appellant testified that she attempted to utilize medical services in October and learned that she did not have coverage at that time. The appellant's representative and daughter contacted HSRI on October 4th; and was informed that her mother was missing some documentation. She hand carried the documents to the HSRI offices on October 5th. At that time, she learned that her mother was not eligible for Medicaid any longer, and she chose and paid for a qualified health plan (QHP). Simultaneously, the daughter asked that all correspondences be sent to her, as the family had received no notices of any kind since prior to January 1, 2014 when they originally signed up for health care during the initial implementation of both the health program (ACA) and of the computer system. Subsequently, the appellant's daughter received an Enrollment notice dated October 18, 2014 which indicated the appellant had successfully enrolled with Blue Cross/Blue Shield health insurance, and the effective date of coverage was November 1, 2014. The appellant is requesting retroactive coverage as of October 1, 2014.

In summary, the appellant, per policy, was eligible for a special enrollment period following the loss of her health coverage on September 30, 2014. She gave credible and undisputed testimony that she had been unaware of the loss of her Medicaid as she had never received any notices to her home, and had not requested email preference as she did not have a computer. On October 5th, upon realizing the appellant had no coverage, her daughter went to HSRI, chose a plan for her, and paid the premium. Given the proactive approach demonstrated by the appellant prior-signing up for coverage early (October 2013), meeting with HSRI representatives repeatedly in 2013 in order to obtain coverage, contacting the Agency immediately following receipt of questionable billing information, and visiting the HSRI facility the next day in order to rectify any inconsistencies-it is highly likely that if she had she received the termination notice she would have taken steps to insure she was approved for a QHP prior to October 1, 2014.

Regardless, per testimony from HSRI, and per special enrollment regulations-the appellant is allowed coverage as of the first day following the loss of her minimal essential coverage, which should have been October 1st. The notice dated October 18, 2014 did not qualify her for coverage until November 1st.

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

ACTION FOR THE AGENCY:

HSRI is to ensure retroactive coverage for the appellant as of October 1, 2014. It should be noted that the appellant is still responsible for any premiums due for that month, and is also responsible for any tax credits as they relate to her choice of a health coverage plan.

Karen Walsh
Appeals Officer

APPENDIX

RULES AND REGULATIONS PERTAINING TO THE RHODE ISLAND HEALTH BENEFITS EXCHANGE

SECTION 4.0 INITIAL OPEN ENROLLMENT, ANNUAL OPEN ENROLLMENT, AND SPECIAL ENROLLMENT PERIODS

4.1 **In General.** Section 1311 of the ACA and its implementing regulations, 45 C.F.R. §§155.410 and 155.420, establish requirements for initial open enrollment, annual open enrollment, and special enrollment periods for Qualified Health Plans.

4.6 **Special Enrollment Periods.** The Exchange shall provide special enrollment periods lasting a minimum of sixty (60) days and consistent with 45 C.F.R. §155.420 during which qualified individuals may enroll in Qualified Health Plans and enrollees may change Qualified Health Plans.

(a) *Triggering Events.* The Exchange will allow a qualified individual or enrollee, and, when specified below, his or her dependent, to enroll in or change from one QHP to another if one of the triggering events defined in 45 C.F.R. §155.420(d) occurs. The Exchange shall also have the authority to define other triggering events not otherwise specified in 45 C.F.R. §155.520(d).

(b) *Effective Dates*

(1) *General.* Except as specified in §4.6(b)(2) of these Regulations, the Exchange shall establish a monthly deadline by which a qualified individual enrolling during a Special Enrollment Period must select a QHP and the Exchange must receive the first month's premium in order to make coverage effective on the first day of the following month. The Exchange shall make coverage effective on the first day of the second following month for a qualified individual not meeting the monthly deadline.

(2) *Special Effective Dates.*

- i. In the case of birth, adoption, or placement for adoption, the Exchange must ensure that coverage is effective on the date of the birth, adoption, or placement for adoption.
- ii. In the case of marriage or in the case where a qualified individual or dependent loses minimum essential coverage, the Exchange must ensure coverage is effective on the first day of the following month.

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.