Rhode Island Executive Office of Health and Human Services
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July 2, 2015

Docket # 15-614
Hearing Date: May 13, 2015

[redacted]

ADMINISTRATIVE HEARING DECISION

The Administrative Hearing that you requested has been decided. 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: 7.8 Effective Dates of Termination
SECTION 5.5 Calculation of Advance Payments of the Premium Tax Credit
SECTION 5.0 Advanced Payments of the Premium Tax Credit

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 agency representatives Sandra Cipriano and Noah Zimmerman.

Present at the hearing were: You (the Appellant) and agency representatives Sandra Cipriano and Noah Zimmerman.

ISSUE: Should the appellant's eligibility for Medical Assistance during 2014 be determined without counting the household's survivor benefit income?

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 Agency representative testified:

- The following update is submitted based upon further research on the issue under appeal regarding the appellant's eligibility determination. The appellant originally entered her income on January 1, 2014 with the assistance of a HSRI Customer Enrollment Specialist (CES) via telephone. During the phone call, which was recorded and which I reviewed, the CES reviewed the appellant's income in the application to confirm that it was correct.
- The CES also reviewed the income the two children were receiving and acknowledged the source of this income as survivor benefits. As a result of this call, it is clear that the CES was incorrect in his understanding of the policy regarding countable income for assessing eligibility for health coverage.
- Had the CES correctly understood the policy, he would have known that survivor benefits are not countable and would have counseled the appellant to remove this income from the application.
- However, while we acknowledge the above mistakes and their results, we are unfortunately unable to unilaterally grant the relief that the appellant is seeking, namely, to be re-instated in Medicaid for the months in 2014 in which she should have been eligible.
- This is because only the RI Department of Human Services (DHS) has the authority and technology necessary to effectuate the backdating of Medicaid coverage. Health Source Rhode Island's system only permits it to provide Medicaid coverage on a proactive (i.e., going forward) basis.
- We regret that we are unable to directly provide the relief sought. We will await a decision from the hearing officer and will faithfully execute that decision once received.

The appellant testified:

- She stated that she was on Medicaid in 2013 based on her SSI Disability Income of $21,480.00. She recertified in December 2013 and was told she did not qualify for Medicaid based on her family income (including her daughters on SSI death benefits of $540.00 per child per month) of $34,440.00. At this time they never told

her, but they had the income for the household at $56,000.00- from where I don't know.

- I began paying $117.95 per month in February 2014. In August 2014 I had to recertify my daughters for Rite Care and was told that I qualified for a lower premium as their income was not countable towards household income, and my premium went down to $30.00 per month and with added Dental it was $59.00 per month.
- This amount stayed until I recertified my own policy in November 2014 and they said that my income was $56,000.00. I told them that my income was $1790.00 per month and my daughters combined was $1080.00 per month.
- She stated that now 5 months later nothing is resolved. In February she received her IRS form 1095-A Health Insurance Marketplace Statement. The statement has income that I received as a discount for my Health Insurance.
- Since HSRI made the data entry error I want HSRI to fix the problem that they created.
- Since paying Blue Cross Blue Shield I want the monies back that I paid out, $117.95 for the 6 or 7 months I paid this rate, $707.70 or $825.65 if it was 7 months. And reimbursement for the remaining 3 to 4 months$177.00 or $236.00 I paid for coverage.
- I also paid for my prescriptions out of pocket for the 12 months which averaged $85.00 per month.
- I am on a fixed income, receiving death benefits for my 2 children ages 14 and 11. My polio is resurfacing and my mobility is getting worse. I had my first child at age 40 and my next at age 44 and I was a widow at age 47.
- I lost my husband, his business and all the investment into the business and the building when the economy crashed in 2008, 2009, and 2011.
- She stated that she is requesting reimbursement for the premiums she paid that were not correct during 2014.

FINDINGS OF FACT:

- HSRI sent the appellant a Medicaid Recertification Notice dated February 9, 2015 indicating that the appellant and the members of her household were due for a review of Medicaid eligibility.

- The appellant submitted an appeal in response to the February 9, 2015 Medicaid Recertification Notice on March 12, 2015.

- The HSRI representative reviewed the appellant's eligibility record and determined that the survivor benefit income attributed to the appellant's household during 2014 should not have been counted. Her household's countable income for assessing eligibility was incorrectly determined.

- The appellant requests reimbursement for the premiums that she paid for that were incorrectly calculated by HSRI.

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- This record of hearing was held open through June 15, 2015 to allow the agency to review the appellant's eligibility within the system and to make the appropriate corrections.

CONCLUSION:

The issue to be decided is whether the appellant is eligible for reimbursement and/or premium credit for months in 2014 when her household income was incorrectly determined by the agency?

The agency representative submits that the appellant initially submitted her household income information to HSRI during January 2014. The HSRI CES reviewed the income and determined that the source of the income for the two minor children was survivor benefits. The HSRI representative submits that it is clear that the CES was incorrect in counting the survivor's income as part of the household income.
The HSRI representative acknowledged the household income mistake and incorrect eligibility results. However HSRI is not capable of granting the relief sought by the appellant. The representative submits that only DHS has the authority and technology to effectively backdate the appellant's Medicaid coverage.

The appellant testified and submitted documentation of the death benefit income received for 2014 by her 2 daughters. She submits that because the agency miscalculated her household income she should be reimbursed for the Blue Cross premiums that she paid.
The appellant testified that during 2013 she was on Medicaid and qualified based on her annual SSI Disability Income of $21,480.00. Her household qualified for coverage in 2014 and she began paying a monthly premium of $117.95.
The appellant testified that when her household's Medicaid was recertified in August 2014 she was told her monthly premium would go down to $30.00 per month plus $59.00 per month for dental because her daughter's survivor benefit should not have been counted for eligibility purposes.
The appellant is requesting that she be reimbursed for the Blue Cross premiums that she paid during 2014 and for the additional premiums she paid for 2014 subsequent to her Blue Cross coverage. The appellant is also requesting that HSRI forward her an amended 1095-A which reflects the correct tax credit once her correct income is calculated for 2014.

Review of the record presented determines that HSRI does not dispute the income documentation submitted by the appellant which she received during 2014. HSRI submits that the income used in determining the appellant's eligibility during 2014 was

incorrect. HSRI submits that the survivor income received by the appellant's household should not have been counted when calculating the premium due from the appellant's household towards her Blue Cross coverage.

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

ACTION FOR THE AGENCY:
The agency is to reimburse the appellant for the premiums she paid to Blue Cross during 2014. HSRI is to determine if the appellant paid the $117.95 premium for six or seven months and reimburse her accordingly.

Michael Gorman
Appeals Officer

APPENDIX

RULES AND REGULATIONS PERTAINING TO THE RHODE ISLAND HEALTH BENEFITS EXCHANGE

7.0 TERMINATION OF COVERAGE AND GRACE PERIODS

7.8 Effective Dates of Termination(a) Voluntary termination

*) *Voluntary terminations.*

(1) Upon a voluntary termination request submitted at least fourteen (14) days prior to the end of the month, coverage shall be terminated at the end of the month. Coverage shall be terminated at the end of the following month if the termination request is submitted less than fourteen days prior to the end of the month.

(2) The Exchange may grant a different termination date if the request is submitted at least fourteen (14) days prior to the proposed termination date.

(3) The Exchange has discretion to grant an earlier termination date, on a case-by-case basis.

(4) If the enrollee requests coverage termination due to eligibility for Medicaid, coverage will terminate the day before Medicaid coverage begins.

›) *Involuntary terminations.*

(1) If the enrollee is no longer a qualified individual as determined upon receipt of information from the enrollee or information obtained by the Exchange, coverage will terminate on the last day of the month following the month in which the Exchange sent the enrollee notice of an eligibility redetermination. In such a case, the enrollee may request an earlier termination date, pursuant to §7.8(a) of these Regulations.

(2) If the coverage is terminated for non-payment pursuant to §7.5(c) of these Regulations.

(3) If the enrollee dies, coverage terminates on the day of the death. Premiums will be refunded by the Exchange to the estate for the remainder of the month.

(4) If the enrollee changes Qualified Health Plans, the existing Qualified Health Plan coverage terminates the day before the new coverage begins.

(5) If the Qualified Health Plan terminates or is decertified, coverage will terminate the day the Qualified Health Plan terminates or is decertified, unless the enrollee is granted an earlier termination date pursuant to §7.8(a) of these Regulations.

SECTION 5.0 ADVANCED PAYMENTS OF THE PREMIUM TAX CREDIT

5.1 **In General.** Section 1401 of the ACA creates new section 36B of the Internal Revenue Code (the Code), which provides for a premium tax credit for eligible individuals who enroll in a QHP through an Exchange. Section 1402 of the ACA establishes provisions aimed at reducing the cost-sharing obligations of certain eligible individuals enrolled in a QHP offered through an Exchange, including standards for determining Indians eligible for certain categories of cost-sharing reductions. The ACA and its implementing regulations, found in 45 C.F.R. §155.305, authorize the Exchange to determine qualified individuals' eligibility for Advance Payments of the Premium Tax Credits. In order to qualify for Advance Payments of Premium Tax Credits, an applicant must meet both the eligibility requirements to enroll in a Qualified Health Plan as described at §3.0 of these Regulations

and the eligibility requirements for the advance payment of premium tax credits as described in this subpart. An applicant determined eligible for a premium assistance amount may elect not to take the full monthly premium assistance amount for which he or she is determined eligible. The amount of the premium tax credit the applicant should have received over the course of the benefit year will be reconciled when the applicant files a tax return for that year.

5.5 **Calculation of Advance Payments of the Premium Tax Credit.** The Exchange shall calculate any applicant's advance payment of the premium tax credit in accordance with the requirements of 26 C.F.R. §1.36B-3.

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.