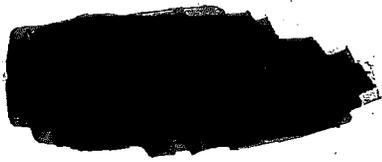


**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DEPARTMENT OF HUMAN SERVICES  
APPEALS OFFICE  
600 New London Avenue  
Cranston, Rhode Island 02920  
(401) 462-2132/Fax# (401) 462-0458  
TDD# (401) 462-3363**

Docket #14-1917  
Hearing Date: March 12, 2015

Date: March 16, 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 policy reference(s) were the matters before the hearing:

**THE DHS POLICY MANUAL: RETROACTIVE ELIGIBILITY DEFINED SECTION  
0310.05, ELIGIBILITY REQUIREMENTS SECTION 0310.10,  
0310.15 PROCEDURES**

The facts of your case, the agency policy, 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, agency representatives: Kristen Grosso, Susana McCoy, Betty Perez and the policy unit. Present at the hearing were you, your parents and Kristen Grosso.

**ISSUE:** Is the appellant eligible for retroactive Medicaid coverage?

**DHS POLICIES:** Please see the attached APPENDIX for pertinent excerpts from the Rhode Island Department of Human Services Policy Manual.

**DISCUSSION OF THE EVIDENCE:**

The agency representative testified:

- The agency received an application for Medical Assistance from the appellant on September 22, 2014. On the application the appellant indicated that he was requesting retroactive Medical Assistance for the month of December 2012.
- The appellant has had Medicaid since January 1, 2013. Per policy when the agency receives an application for Medical Assistance the agency must use the month that the application was submitted to determine Medical Assistance eligibility.
- The Medical Assistance policy allows the agency to determine if retroactive eligibility exists from 3 months prior to the month of application. The agency representative submitted copies of agency policies 0310.05, 0310.10, & 0310.15.
- The agency representative state that according to the Social Security interface the appellant was determined to be eligible for cash assistance as a disabled individual on March 1, 2013. The appellant's disability onset date according to Social Security was January 3, 2013.
- The agency representative stated that even if the appellant's application had been received by the agency either in January, February, or March of 2013 the agency would not have been able to provide retroactive Medical Assistance for December of 2012 as the appellant was not determined disabled until January 2013 by Social Security.
- The agency did not review retroactive eligibility for the months of June, July, or August 2014 as the appellant was active on Medical Assistance for those months.
- She stated that when an individual is determined eligible for SSI they automatically receive Medical Assistance coverage.

**The appellant's father testified:**

- He stated that his understanding of retroactive eligibility is for the three months after his son entered the system as eligible for SSI. He stated that his son applied for Social Security disability benefits during January of 2013.
- He stated that Social Security determined that his son was slightly over the resource limit for December 2012 and therefore not eligible for that month. His son did not begin to receive SSI income until March of 2013.
- He stated that there is a seven day period from December 2012, December 24 through December 31, when his son was hospitalized that Social Security determined he was not eligible because the application was submitted during January 2013.

- He stated that the seven day period in December of 2012 is what he is pursuing for Medical Assistance coverage. He stated that some of his son's hospital bills have been paid for by the family totaling approximately \$8900.00.
- He stated that his son was diagnosed on January 1, 2013 and his Medical Assistance cards did not arrive until April of 2013.
- He stated that it wasn't until April 2013 that the family discovered that there was the gap of seven days for December 2012.
- He stated that during May and June of 2013 the family attempted to contact someone from DHS to explain the gap in coverage. He stated that in July of 2013 he contacted the governor's office and they put him in touch with Nolan Byrne from DHS.
- He stated that during July 2013 Nolan Byrne informed him that his son was not eligible for retroactive coverage into December 2012. She also told him that his son was not eligible for payment of any deductibles that might not be paid by his son's insurance.
- He stated that he accepted the information from Nolan Byrne as fact although it did not make any sense to him.
- He stated that during July 2013 he was at the pharmacy picking up his son's medication when he was told by the pharmacist that the pharmacy owed him money back for prior pharmacy charges. He received a check from Rite Aide the next day.
- He stated that this led him to believe that the information from Nolan Byrne was not correct. As a result the family contacted all of the doctors his son had seen from July through October and every one reimbursed them for charges that were covered by Medical Assistance.
- He stated that he contacted the governor's office at that time and Nolan Byrne wrote back by e-mail on March 26, 2014 indicating that she had made an error by not recommending a Medical Assistance application or the fair hearing process.
- He stated that with the hospital not informing them of the Medical Assistance application process as well as a DHS representative not providing the correct information, who was responsible to inform the family?
- He stated that eventually he contacted the Providence DHS office and he submitted a Medical Assistance application during September of 2014. He stated that this was done in order to qualify for a fair hearing.

**FINDINGS OF FACT:**

1. The agency notified the appellant by notice dated September 26, 2014 that his request for retroactive Medical Assistance for the month of December 2012 was denied.
2. The same notice informed the appellant that he was not eligible for retroactive Medical Assistance eligibility for the months of December 2012 because he has had Medical Assistance coverage since January 2013 and that the agency cannot provide retroactive coverage back to December 2012.
3. The appellant submitted an application for Medical Assistance to the agency on September 22, 2014
4. The appellant applied for Social Security Disability benefits during January 2013. The appellant was determined eligible for Medical Assistance by Social Security effective January 2013. He was determined eligible for SSI cash assistance effective March 2013.
5. The appellant is requesting retroactive Medical Assistance coverage for a hospital stay from December 24, 2012 through December 31, 2012.
6. The appellant was not eligible for Medical Assistance from Social Security during December 2012 because he was over the resource limit.
7. This hearing was initially scheduled for December 17, 2014. At the request of the appellant the hearing was rescheduled three times to March 12, 2015.

**CONCLUSION:**

The issue to be decided is whether the agency, in its calculation of the appellant's retroactive eligibility correctly applied retroactive policy given an application date of September 22, 2014.

A review of agency policy determines that the agency allows a maximum of 3 months retroactive eligibility from the initial month of application. There is no dispute between the agency and the appellant as to the month of application. The agency made its determination of eligibility based on an application filed September 22, 2014.

The agency notice of September 26, 2014 notifies the appellant that he is not eligible for retroactive MA because he has been eligible for Medical Assistance since January 1, 2013.

The appellant's representatives submit that the appellant's application for Medical Assistance filed with Social Security during January 2013 should allow him retroactive coverage to be determined by the agency for the month of December 2012. The representatives testified that they were provided with misinformation from an agency representative during July of 2013 regarding retroactive eligibility.

Review of agency policy specific to retroactive eligibility determines that policy (#0310.10) states, "The applicant must meet MA eligibility requirements for each month in which an unpaid medical bill was incurred. Thus retroactive eligibility may be determined for one, two or three months of the retroactive period." In this matter, based on an application date of September 22, 2014 it was not necessary for the appellant to have

Agency policy specific to determination of the date of eligibility (#0310.05) states that, "Categorically and Medically Needy individuals who meet the SSI-related eligibility criteria may request retroactive eligibility for up to three months prior to the month of application." In this matter the month of application is September 2014. The appellant is requesting retroactive eligibility for the month of December 2012. The policy allows retroactive eligibility for only three months prior to the month of application.

In this matter the appellant's representatives request that the appellant be allowed to establish eligibility in the retroactive period 21 months prior to the date the application was submitted to the agency.

The hearing officer in this matter has jurisdiction with regard to the appellant's September 2014 application and the agency denial notice of September 26, 2014. The hearing officer has no jurisdiction regarding the retroactive eligibility determination made by Social Security during January 2013. At that time retroactive eligibility for the month of December 2012 was apparently denied for excess resources.

After a careful review of the agency's policies as well as the evidence and testimony given, the Hearing Officer finds that the appellant's retroactive eligibility was denied correctly based on review of the retroactive time-frame requested by the appellant.

The appellant's request for relief is denied.

**APPEAL RIGHTS (see last page )**



Michael Gorman  
Hearing Officer

**APPENDIX**

**RETROACTIVE COVERAGE DEFINED**

**0310.05**

**REV: 07/2002**

**Categorically Needy and Medically Needy individuals who meet the SSI-related eligibility criteria may request retroactive eligibility for UP TO THREE (3) MONTHS PRIOR TO THE MONTH OF APPLICATION. To obtain retroactive coverage, applicants must meet all eligibility criteria during the retroactive period.**

**Retroactive coverage is also available to IV-E and non IV-E foster children and adoption subsidy family-related coverage groups.**

**Retroactive coverage for the three (3) months prior to the month of application is not available to members of all other**

family-related coverage groups, including Section 1931 families, Waiver Families, Medically Needy Families (including flex test cases), Rlte Care or Rlte Share pregnant women and children, all RETROACTIVE COVERAGE DEFINED 0310.05 Rlte Care State-funded coverage groups, and all Extended Family Planning coverage groups.

The following chart details the family-related coverage groups who are eligible/ineligible for retroactive services:

COVERAGE GROUP	ELIGIBLE FOR RETRO
Section 1931 MA (including FIP)	N
Family Waiver MA income greater than 110% FPL	N
Pregnant Women income less than or equal to 250% FPL	N
Children up to age 19 RETROACTIVE COVERAGE DEFINED 0310.05 income less than or equal to 250% FPL	N
IV-E and non IV-E Foster Children	Y
Adoption Subsidy Children Coverage Groups	Y
Medically Needy (includes Flex Test) Family-related groups	N
SSI-related coverage groups Categorically or Medically needy	Y
Non-citizens who are ineligible for ongoing medical assistance due to immigration status - All coverage groups	Y

At the time of application for Medical Assistance, if the RETROACTIVE COVERAGE DEFINED 0310.05 applicant indicates that an unpaid medical bill was incurred in the three month period preceding the application, eligibility for retroactive coverage must be determined.

Current eligibility for SSI, FIP or Medical Assistance does NOT affect retroactive eligibility. Individuals who are denied SSI,

FIP, or MA in the month of application may be eligible for retroactive coverage.

An applicant need not be alive when an application for retroactive coverage is filed.

Retroactive eligibility is not available to persons who were not residents of Rhode Island in the retroactive period and at the time the service was provided.

**ELIGIBILITY REQUIREMENTS**

0310.10

REV: 01/2001

Retroactive coverage applies only to unpaid medical bills for services provided within the scope of the Medical Assistance (MA) Program. The medical bills must have been incurred during the three month retroactive period. The applicant must meet MA eligibility requirements for each month in which an unpaid medical bill was incurred. Thus, retroactive eligibility may be determined for one, two or three months of the retroactive period.

**ONLY THE INCOME AND RESOURCES AVAILABLE TO THE APPLICANT IN THE RETROACTIVE PERIOD ARE USED TO DETERMINE ELIGIBILITY.**

All services are subject to the same Title XIX utilization review standards as all other medical services of the Medical Assistance Program.

**PROCEDURES FOR DETERMINING RETRO ELIGIBILITY** 0310.15

REV: 07/2002

In determining retroactive eligibility, the applicant's net income (after allowable deductions and disregards) and resources are compared to Medically Needy limits UNLESS the unpaid medical bill is for Categorically Needy service only. In this case, eligibility must be based on the applicable Categorically Needy limits.

To determine retroactive eligibility, complete the following:

- o Verify that the bill is unpaid and is for a covered service provided within the three (3) months prior to the first of the month of application for SSI,FIP or MA.

**Establish eligibility based on:**

**PROCEDURES FOR DETERMINING RETRO ELIGIBILITY 0310.15**

- Residence
- Characteristic (if required)
- Relationship (if required)
- Citizenship or alienage; and,

**at the time of application, the applicant must fulfill cooperation and enumeration requirements.**

**o Compare the resources and net income (after allowable deductions and disregards) to the appropriate income limit for the month(s) in which there is a verified, unpaid bill(s) (income limits refer to Categorically Needy income limits, Medically Needy income limits and Low Income Aged and Disabled income limits). Resources must be within the applicable resource limit as of the first day of each month for which eligibility is being**  
**PROCEDURES FOR DETERMINING RETRO ELIGIBILITY 0310.15**  
**determined.**

- o Determine whether retroactive coverage is available to individual's coverage group.**
- o If eligible, certify the case for the month or months of eligibility. Retroactive eligibility is for one (1), two (2), or all of the three (3) months immediately preceding the month of application.**
- o If the income exceeds the Medically Needy Income Limits apply the Flexible Test of Income. If the Flexible Test of Income results in achieving MA retroactive eligibility, only those bills not applied to excess income are authorized for retroactive coverage.**

**If the bill is for a service not provided under the Medically**  
**PROCEDURES FOR DETERMINING RETRO ELIGIBILITY 0310.15**  
**Needy scope of services, the application must be determined for eligibility as Categorically Needy.**

- o If an unpaid bill is for a Categorically Needy service and the applicant's income exceeds the Categorically Needy Income Limits, the application for retroactive eligibility is denied. There is no Flexible Test of Income for income in excess of the Categorically Needy**

**Income Limits.**

- o **If unpaid bills for both Medically Needy and Categorically Needy services are submitted, the applicant must be found eligible as Categorically Needy or the bill(s) for the Categorically Needy service(s) must be denied. If the individual is eligible as Medically Needy, only the bill(s) for Medically Needy services can be authorized for retroactive coverage.**

**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.