EXECUTIVE OFFICE OF HEALTH & HUMAN SERVICES
STATE OF RHODE ISLAND

Rhode Island Executive Office of Health and Human Services
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May 11, 2015

Docket # 14-2036
Hearing Date: March 19, 2015

[redacted]

## 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 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 Health Source RI (HSRI) Agency representatives: Noah Zimmerman, and Lindsay Lang.

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

**ISSUE: Is the appellant responsible for any health coverage premiums and/or tax penalties incurred for the month of December 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 Agency representative testified:**

- Based upon review of the appellant's eligibility for the months of October 2014, November 2014 and December 2014. The appellant was QHP eligible for October 2014 with a maximum APTC of $282.11 per month. The appellant was QHP eligible for November 2014 with a maximum APTC of $520.41 per month. The appellant was QHP eligible for December 2014 with a maximum APTC of $394.13 per month.

- He agreed to make a correction to the appellant's premium balance and tax credit determination. He has subsequently been informed that because of the way the HSRI computer system is set up he cannot change the APTC in order to bring down the appellant's outstanding balance. He will attempt to resolve this with an alternative solution.

- He submits that the IRS is providing penalty relief for individuals and families who are unable to file a complete and accurate return by April 15, 2015 due to a delay or incorrect form 1095-A.

- According to the IRS if you were enrolled in qualifying Marketplace coverage, filed your return using information from your 1095-A, and you later learn that the information on that form was incorrect, you do not need to file an amended return. This is true even if additional taxes would be owed based on the new information.

- Under the relief provided, the IRS will not pursue the collection of any additional taxes from you based on updated information in the corrected form. Even though you are not required to file an amended tax return, you can still do so if the updated information would grant you a more favorable financial outcome.

- If the appellant prefers to wait until she receives an updated 1095-A from HSRI to file her taxes, she has this option as well. Because the appellant falls into the group described above she is qualified for an extension to file her taxes until October 15, 2015.

**The appellant testified:**

- She had received correspondence dated September 26, 2014 from HSRI that her monthly premium would be $1.66. She initially applied for health insurance on August 26, 2014 as she was losing her insurance as of September 1, 2014.

- She was told at that time that she would not qualify for enrollment until October 1, 2014 because she applied after the 23rd of the month.

- She spoke with a HSRI representative at that time who told her that she would not be responsible for more than the stated $1.66 per month. She met with a HSRI representative on September 22, 2014 at HSRI to receive confirmation of her premium.

- She has received 7 notices from HSRI informing her that she owes $1.66 for the months of October, November and December 2014.She submitted a copy of an account statement with an attached handwritten statement from a HSRI employee indicating that the appellant owes $1.66 through December 31, 2014.

- She submits that as a customer of HSRI she is entitled to reliable information. The HSRI website repeatedly gave her the information that she would owe $1.66 per month. She paid this each month. The provider cannot change the premium "after the fact'.

- She submits that HSRI has a legal obligation to provide reliable and timely information and it did not. This situation has caused her great hardship and emotional distress. She cannot and will not pay the $510.00 she is now being illegally charged. In addition she declined other insurance coverage because it was too expensive and above 9.5% of her income, on the basis that the Obamacare premium was the stated price. That insurance would have been cheaper than $510.00 per month and provided better coverage so she has been doubly harmed.

**FINDINGS OF FACT:**

- A notice from HSRI dated September 26, 2014 informed the appellant that her family had successfully enrolled with Blue Cross/Blue Shield of Rhode Island. The same notice also states that the appellant's monthly premium would be $1.66. The notice states that the coverage would be effective on October 1, 2014.

- The appellant requested a hearing regarding a bill she received from HSRI on September 26, 2014. The hearing request was in response to a HSRI bill indicating that she had an outstanding balance of $1016.88 due HSRI due October 23, 2014.

- The initial hearing on this matter was scheduled for January 15, 2015. The hearing was rescheduled at the appellant's request. A hearing was held on February 3, 2015.

- Subsequent to the February 3, 2015 hearing this matter was reconvened at the request of the hearing officer on March 19, 2015.

- The record of hearing was held open through April 2, 2015 to allow HSRI to submit additional information to the record.

**CONCLUSION:**

**The issue to be decided is what is the appellant's payment responsibility for health coverage premiums and corresponding 1095-A for the months of October 2014, November 2014 and December 2014?**

The appellant submits evidence that she applied for HSRI coverage during August 2014 and was notified by HSRI of eligibility effective October 1, 2014 with a monthly premium of $1.66. The appellant also submitted evidence that she was provided in writing a statement from a HSRI employee that her monthly premium through December 2014 would be $1.66.
The appellant submitted a letter from Blue Cross/ Blue Shield of Rhode Island indicating that a claim with a date of service of December 3, 2014 was denied because there was no active coverage for the appellant for that date.
The appellant submitted a letter dated January 21, 2015 from the Rhode Island Department of Attorney General from the Chief of the Insurance Advocacy Unit. The letter confirms that the Chief was present during telephone calls between the appellant and HSRI during which the appellant was told that her insurance would be renewed in January 2015 and that the payment made at that time would be applied to January and not to any alleged back payments. Further the letter states that HSRI determined that the appellant did not have access to her insurance prior to her departure from the state in December and she was later informed that her coverage was terminated back past the date her coverage even began.
The appellant submitted to the record 5 notices from HSRI indicating a monthly premium of $1.66 due for the months of October, November and December 2014.

Subsequent to the hearing held March 19, 2015 both parties have submitted response to this record regarding an agreeable resolution to the appellant's premium obligation and correct 1095-A.

**ACTION FOR THE AGENCY**

**The plan that is acceptable to this hearing officer requires HSRI to draft a letter to the appellant that specifically states that the 1095-A that was provided to the**

**appellant for 2014 was not correct. HSRI is to provide the appellant with a corrected 1095-A that reflects that the appellant did not have coverage during December 2014 and calculates the appropriate tax credit only for the months of October and November 2014.**
**The appellant presently is being billed for $862.00 by HSRI. HSRI is to rescind this bill and bill the appellant a total of $568.00 for 2014.The appellant is not responsible for any health coverage premiums and/or tax penalties incurred for the month of December 2014.**
**HSRI is to respond to this record within 30 days of this decision to provide confirmation that the above described actions have been taken.**

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.

**Please note that the final calculation of tax credits is conducted by the federal Internal Revenue Service through the reconciliation process, in accordance with section 36B(f) of the Internal Revenue code, and that decisions or interpretations of the EOHHS appeals office are not binding against the IRS during that process.**

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 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.

b) *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.