Rhode Island Executive Office of Health and Human Services
Appeals Office, 74 West Rd., Hazard Bldg., 2nd floor, Cranston, RI 02920
Phone: 401.462.2132 fax: 401.462.0458

March 23, 2017

Docket # 17-412
Hearing Date: March 9, 2017

[redacted]

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
0110.05 Administrative Authorization
0110.20 Definition of an Appeal

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: Ben Gagliardi, Esq., Lindsay Lang, Esq., and Derek Tevyaw.

Present at the hearing were: You (the Appellant), your father, and HSRI representative Ben Gagliardi.

ISSUE: Did the appellant file a timely appeal?

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:

Timeliness-

- Health source did send an August 24th Dis-enrollment notice stating that his (appellants') coverage had been terminated retroactively to April 30th.

- It's our position that the notice was accompanied by appeal rights which included time frames and noted an appeal had to be filed within 30 days.

- This appeal was filed on January 20, 2017.

Substantive Issue:

- The Federal poverty level which determines the amount of tax credits you are entitled to was "0" and for this plan you have to be between 100% and 400% of the FPL.

- Under 100% if he had met the other requirements for Medicaid he would have been enrolled in Medicaid.

- In this case because the FPL was "0" the system treated him like he was never eligible for tax credits, and terminated that segment of coverage.

- We can't speak for the DHS program regarding his Medicaid eligibility at that time, but we can say he was no longer eligible for the QHP because of his FPL of 0.

- HSRI makes decisions based upon his FPL from projected income, and DHS requires last four weeks paystubs as well as paper documentation and other requirements.

- He was not put into another program at the time.

- The June 30th Invoice showed the total due by July 23rd as $2.49 including a past due balance, but payment in July would have allowed through payment.

- He was dropped retroactively to April 30th and at that time the tax credits and the coverage was removed.

- We do agree that he should have been in either the QHP or the Medicaid program.

The appellant and his father testified

Timeliness-

- He agrees his insurance was terminated in April and had no insurance since May on.
- He had been paying his insurance and believed he continued to have insurance.
- He did not appeal because he never saw any notification about termination.

Substantive Issues:

- If the premiums were paid, and we paid them every month, then why are they still taking the payments every month if we do not have coverage?
- His prescriptions were paid for during visits, but he later got bills after things were submitted.
- We are trying to figure out what happened and we never knew it had happened.

FINDING OF FACTS:

- An August 24, 2016 Dis-enrollment notice informs the applicant he is “no longer eligible” as of April 30, 2017. The notice includes appeal rights, instructions, and deadlines within which to appeal.
- Coverage, per the notice was terminated retroactively to April 30, 2016.
- Regulations 0110 Complaints and Hearings allow the appellant a thirty day period in which to appeal a specific notice or adverse action by the Agency.
- The appellant appealed on January 20, 2017.
- A hearing was convened on March 9, 2017.

CONCLUSION:

The first issue to be decided is whether the appellant filed a timely request.

At that time of the hearing on March 9th the issue of timeliness was discussed. The appellant was notified that in the event timeliness was not determined in his favor then the substantive issues would not then be considered.

The Executive Office of Health and Human Services (EOHHS) is the Department in the Rhode Island State Government authorized to hold hearings on social services

programs including appeals related to the Rhode Island Health Benefits Exchange (RIHBE). An appeal or request for an opportunity to present one's case to the appropriate state agency must be filed within guidelines specific for that program. Regulations allow the appellant a thirty day period in which to appeal a specific notice or adverse action by the Agency. The appellant is requesting to return to an adverse action which took place in August 2016 and which resulted in a loss of benefits retroactively to April 30, 2016.

The appellant argues that he never saw the August 24, 2016 Dis-enrollment notice, and he continued to pay his premiums as requested by the monthly bill from HSRI. His medical card was accepted by his providers initially and it was not until some months later that he was billed for services. He appealed in January of this year, and is still unclear as to whether he has medical coverage going forward.

The Agency presents that the appellant was given notification of his termination in the August 24th notice, and he did not appeal at that time, rendering his current appeal unacceptable. Post hearing they presented the August 24th notification.

Review of the testimony, evidence, and regulations reveals that an August 24, 2016 dis-enrollment notice was sent to the appellant to his address of record. Although the appellant may not have seen the notice at the time, it is well established that the "risk of non-delivery" must be borne by the party who seeks the approval (Mauricio v. Zoning Board of Review). Thus, delivery is presumed. The notice informed the appellant that his coverage would be retroactively terminated to April 30th and that he was no longer eligible for coverage. The notice further allowed for a 30 day appeal, and included instructions for processing such an appeal. Thus, the appellant was legally and correctly informed of his status and his rights in August but did not appeal the action by the Agency until January 2017.

In summary, regulations allow the appellant a thirty day period in which to appeal a specific notice or adverse action by the Agency. The appellant is requesting to return to an adverse action which took place on or around August 29, 2016 (allowing for a 5 day delivery). At that time the appellant was informed of his rights and responsibilities as well as the 30 day time frame in which to appeal his program. He did not appeal until some 5 months later, rendering his appeal moot as it falls beyond the allowable 30 days. As a result, he lost the opportunity to be heard on the merits of this case.

After a careful review of the Agency's regulations, as well as the credible testimony and evidence submitted by all parties, the Appeals Officer finds that the appellant's request for relief is therefore denied. The substantive issues will not be weighed as the appellant's appeal was not filed timely.

Karen Walsh
Appeals Officer

APPENDIX

MEDICAID CODE OF ADMINISTRATIVE RULES (MCAR)

0110 COMPLAINTS AND HEARINGS

0110.05 ADMINISTRATIVE AUTHORIZATION

REV: 08/2013

The Executive Office of Health and Human Services (EOHHS), through federal/state programs established by the Social Security Act of 1935,
as amended, the Rehabilitation Act of 1973, as amended, and through state/local programs established by Chapter 42-7.2, of the General Laws of Rhode Island, as amended, is the Department in the Rhode Island State Government authorized by law and designation to hold hearings on a statewide basis, the following public financial, medical, vocational and social services programs:

- o RIW: Rhode Island Works
- o CCAP: Child Care Assistance Program
- o SNAP: Supplemental Nutrition Assistance Program
- o SSI-SSP: Supplemental Security Income and State Supplemental Payment Program
- o Medicaid
- o MAGI Medicaid: The portion of the Medicaid program with eligibility
subject to Modified Adjusted Gross Income ("MAGI"), pursuant to 42 C.F.R. 435.119
- o OCSS: Office of Child Support Services
- o GPA: General Public Assistance Program
- o SS: Social Services Program
- o ORS: Office of Rehabilitation Services' Vocational Rehabilitation (VR) Program and Services for the Blind and Visually Impaired (SBVI) Program
- o VA: Veterans' Affairs (VA) Program
- o DCYF: Department of Children, Youth, and Families programs and services
- o DOH: Department of Health (DOH) programs and services

- o BHDDH: Department of Behavioral Healthcare, Developmental Disabilities, and Hospitals programs and services
- o DEA: Division of Elderly Affairs programs and services.

The Rhode Island Health Benefits Exchange ("RIHBE" or "Exchange") has
designated EOHHS to serve as the Exchange appeals entity for all

Exchange appeals other than large employer appeals (hereinafter "Exchange Appeals"). EOHHS accepts that designation and thus is the Department authorized and designated hereinafter to hear and decide such Exchange Appeals.
Exchange Appeals include the following categories of appeals: Basic QHP Eligibility; APTC/CSR Eligibility or Calculation; Exemption; SHOP
– Employer; SHOP – Employee; and Large Employer.
These specific policies and procedures are set forth under the law to
provide equitable treatment for all applicants and recipients.

0110.20 Definition of an Appeal
REV: 08/2013
An "appeal" means a request by a claimant (or his/her authorized representative) for an opportunity to present his/her case to the appropriate state agency authority for resolution of the pertinent matter. The appeal must be filed within:

- Ten (10) days from the mail date if it pertains to General Public Assistance;
- Ninety (90) days from the mail date related to SNAP benefits;
- Forty-five (45) days from the mail date related to Office of Rehabilitation Services matters;
- Thirty (30) days from the mail date related to child support services;
- Thirty (30) days from the mail date related to the State Medical Assistance (Medicaid) Program;
- DCYF: Thirty (30) days from the mail date for any DCYF-related matter;
- BHDDH: Thirty (30) days from the mail date for any BHDDH-related matter;
- Thirty (30) days from the mail date for any other DHS program;
- Thirty (30) days from the mail date for any RIHBE-administered program.

Appeal requests for any of the programs listed above may be submitted:

- In person to any DHS/DCYF/BHDDH field office/appeals office, as appropriate; and
- By U.S. Mail to any DHS/DCYF/BHDDH field office/appeals office, as appropriate.

EOHHS Technical Amendment September 2015 7
Appeal requests related to the MAGI Medicaid Program or related to any program administered by
the RIHBE may, in addition to the submission methods listed above, be submitted:

- by telephone to the RIHBE contact center;
- by fax to the RIHBE contact center/appeals office;
- by U.S. Mail to the address indicated on the appeals request form; or
- online by accessing the user's account through the website made available by the RIHBE allowing for the electronic submission of appeals.

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.