Docket # 19-3338
Hearing Date: October 29, 2019

[redacted]

ADMINISTRATIVE HEARING DECISION

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

Rhode Island Code of Regulations (RICR)
TITLE 220-DEPARTMENT OF ADMINISTRATION (DOA)

CHAPTER 90-HEALTH BENEFITS EXCHANGE
SUBCHAPTER 00 – N/A
PART 1-RULES AND REGULATIONS PERTAINING TO HEALTHSOURCE RI

HEALTH SOURCE RI POLICY MANUAL
HEALTH SOURCE RI POLICY MANUAL (2018/2019)

CHAPTER 12: QHP Billing and Late Payments (pertinent parts)
Chapter 13: Healthsource RI Account Creation & Maintenance (pertinent parts)

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: Lindsay Lang Esq., Ben Gagliardi Esq., and Derek Tevyaw DHS representative Denise McCoy.
Present at the hearing were: You (the Appellant), Health Source representative Derek Tevyaw, and DHS representative Kim Johnson.

ISSUES: Was the Appellant correctly reenrolled in coverage through HSRI effective October 1, 2019 with no termination as of October 31, 2019?
Did DHS correctly remove Medicaid segments for the months of September and October 2019?

RULES AND REGULATIONS from RICR and HSRI Policy Manual:
Please see the attached APPENDIX for pertinent excerpts from the RI Code of Regulations Title 220-DOA; and Rules and Regulations Pertaining to the HSRI Policy Manual

APPEAL RIGHTS:
Please see attached **NOTICE OF APPELLATE RIGHTS** at the end of this decision.

DISCUSSION OF THE EVIDENCE:

The HSRI representative testified:

- On September 20, 2019, there was an update to the application. The Appellant's daughter's income was erroneously removed from the case, causing the eligibility from QHP coverage to change to Medicaid coverage. The Medicaid coverage retroactively started the fee for service coverage for September 1, 2019. The QHP coverage was to terminate September 30, 2019.

- HSRI entered an escalation to reinstate QHP coverage. The tier 2 team that does research on cases received that on October 10, 2019. The QHP coverage was reinstated retroactively to October 1, 2019. The Appellant was granted a special enrollment period.

- It is HSRI's position that there was no lapse in coverage, the Appellant was re-enrolled in the same plan effective October 1, 2019, which is the remedy when somebody is improperly terminated.

- HSRI issued a notice indicating that QHP coverage was re-instated for October 1, 2019.

- The Appellant also received a notice that her coverage would be terminated on October 31, 2019. Then she was issued a notice with appeal rights to disregard the previous notice.

- The Appellant is still enrolled, she is not disputing the notice advising her to disregard the termination notice.

- It is HSRI policy that the insurance carriers cannot unilaterally terminate coverage and HRSI is required to send at least a thirty-day notice to customers, so that an October 31, 2019 termination could not have taken place.

- There are three different systems. Currently, the HSRI system and the billing system, show that the Appellant did not terminate on October 31, 2019, but they are working on

having the carrier system indicate that there was no lapse in coverage.

The Appellant testified:

- Even though the representative says HSRI cannot terminate without a thirty-day notice, they have on many occasions.
- Yes, she did receive a disenrollment notice that told her she would lose her insurance on October 31, 2019.
- The problem with my husband's coverage is that pre-approval was needed for services, so we declined any treatment because we did not think we had coverage.
- When we have been disenrolled in the past it has always been immediate, and we are told it is a glitch in the system.
- I received seven different notices just this week.
- She wants her files and her records to better understand what she needs to be doing.
- She feels like she is being set up for failure in this program.
- Every time she gets a bill it's for a different amount.

FINDINGS OF FACT:

- The Appellant was active with coverage through HSRI (QHP) in September 2019.
- She was erroneously changed form QHP coverage to Medicaid coverage for the months of September and October 2019.
- The Appellant received a September 20, 2019 Disenrollment notice showing a coverage end date of September 30, 2019 from her QHP coverage, for the reason -no longer eligible.
- The Appellant received an October 13, 2019 Disenrollment notice showing a coverage end date of October 31, 2019 from her QHP coverage, for the reason Change of plan.
- The Appellant received an October 21, 2019 Other Communication notice telling her to disregard the prior Disenrollment notice and advising her she was still enrolled in her plans.
- The Appellant received an October 13, 2019 Enrollment notice showing QHP coverage with an effective start date of October 1, 2019.
- HSRI Policy (Chapter 12/13) requires that, HSRI notify the customer thirty days prior to closure; and Regulations do not allow the carrier to unilaterally terminate coverage.

- No additional thirty-day notice has been generated insuring coverage must remain in effect at least through November 30, 2019.
- A hearing was convened on October 29, 2019.
- The record of hearing was held open for additional evidence.
- Additional evidence was received from HSRI on October 30, 2019 and made a part of the record.

CONCLUSION: There are two issues to be determined:
Was the Appellant correctly reenrolled in QHP coverage effective October 1, 2019 with no termination as of October 31, 2019?
Did DHS correctly remove Medicaid segments for the months of September and October 2019?

In regard to the first issue the Appellant presented ongoing issues with her insurance coverage. In the midst of serious medical treatments, she was given conflicting and sometimes erroneous information in regard to her eligibility. HSRI, DHS, and Appellant agree that following a change in the household status, resulting in a redetermination of eligibility the Appellant and her spouse were erroneously given Medicaid eligibility for the months of September and October 2019. The HSRI represented testified that the Appellant has had continual QHP coverage with no lapse in coverage, and despite an incorrect closure notice in October 13,2019, the subsequent manual notification on October 21, 2019 informed the Appellant that the prior disenrollment was incorrect, and she was still enrolled in her plans. The October 13, 2019 Enrollment notice remains intact. HSRI testified that at the time of the hearing, the QHP insurance, per regulation, must at least continue until November 30, 2019. During the held open period, HSRI was asked to verify that the Insurance Carrier was aware of the Appellant's continued coverage. On October 30, 2019, the Hearing Office received a copy of an E-mail sent from the carrier to HSRI confirming the system is aware that there was no closure on October 31, 2019.

In summary, HSRI has resolved all issues regarding QHP coverage and have established that the Appellant has had continuous coverage.

The second issue to be determined is whether DHS has removed the Medicaid segments for September and October 2019.

At hearing DHS confirmed that the Medicaid segments had been removed for the months of September and October. DHS is still required to generate a corrected 1095 B tax form, which reflects that the segments have been removed. These forms are generated in the months of December/ January.

In conclusion HSRI has completed the tasks to correct the Appellant's eligibility for QHP. DHS is still required to ensure that the Medicaid segments have been removed and the corrections are reflected on the 1095 B form.

After a careful review of the Department's Rules and Regulations as well as testimony
The Appellant's request for relief has been granted.

ACTION FOR THE AGENCY: DHS is to ensure that only the Appellant and her spouse have the September and October 2019 Medicaid segments removed. (her son remains on Medicaid).

DHS is to generate a corrected 1095 B, in which Medicaid eligibility for the months of September and October 2019 have been removed.

Geralyn B. Stanford
Appeals Officer

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. The decisions or interpretations of the EOHHS appeals office are not binding against the IRS during that process.

APPENDIX

TITLE 210 - EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES

CHAPTER 10 – EOHHS GENERAL PROVISIONS

SUBCHAPTER 05 – CONSUMER RIGHTS, RESPONSIBILITIES, AND PROTECTIONS

Part 2 - Appeals Process and Procedures for EOHHS Agencies and Programs

2.1.1 LEGAL AUTHORITY

A. The Rhode Island Executive Office of Health and Human Services (EOHHS) was established in 2006 within the executive branch of state government and serves as the principal agency of the executive branch for the purposes of managing the Departments of Children, Youth, and Families (DCYF); Health (RIDOH); Human Services (DHS); and Behavioral Healthcare, Developmental Disabilities, and Hospitals (BHDDH). The EOHHS is designated as the "single state agency," authorized under Title XIX of the U.S. Social Security Act (42 U.S.C. § 1396a *et. seq*.) and, as such, is legally responsible for the program / fiscal management and administration of the Medicaid Program.

B. Although the four (4) state agencies under EOHHS (DCYF, RIDOH, DHS, and BHDDH) maintain the authority to execute their respective administrative powers and duties in accordance with state law, R.I. Gen. Laws § 42-7.2-6.1(2) transferred to the EOHHS the principal responsibility for "legal services including applying and interpreting the law, oversight of the rule making process, and administrative duties and any related functions and duties deemed necessary by the secretary" for all publicly funded health and human services. It is in this capacity that the EOHHS is authorized and designated by state law to be the entity responsible for appeals and hearings related to the publicly-funded health and human services programs identified in § 2.1.3 of this Part below. EOHHS has been authorized as the designated exchange appeals entity pursuant to the Rules and Regulations Pertaining to the Rhode Island Health Benefits Exchange.

HEALTH SOURCE RI POLICY MANUAL

Chapter 12: Billing and Late Payments (pertinent parts)

B. Termination of Coverage in the Individual Market

1) *Involuntary Termination*: HealthSource RI will initiate the termination of an enrollee's coverage in the following circumstances:
• The enrollee is no longer eligible for coverage through HealthSource RI;
• The enrollee did not pay his or her premiums, after the exhaustion of any applicable grace periods;

C. Notification

Upon termination, HealthSource RI shall provide the customer with a notice of termination as well as any other additional notices, as appropriate depending on the reason for the termination. This notice will include the reason for termination and will be sent at least 30 days prior to the last day of coverage for any form of involuntary termination.

Customers who voluntarily terminate their coverage will be disenrolled at the end of the month in which they are making the request and will receive a notice upon completion of the voluntary termination.

Termination notices are always sent by mail, regardless of whether the individual has set his or her notification preference to e-mail. The termination notice will be sent to the primary account contact. If the individual has authorized a representative to make decisions on that individual's account, and the authorized representative's address is listed on the account, then the authorized representative is considered the primary account contact and will receive the termination notice.

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.

CERTIFICATION

I hereby certify that I mailed, via regular mail, postage prepaid, a true copy of the foregoing to [redacted]; copies were sent via email to (HSRI) Agency representatives: Lindsay Lang Esq., Ben Gagliardi Esq., and Derek Tevyaw DHS representative Denise McCoy on this_____ day of _____ 2019.