

STATE OF RHODE ISLAND
EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES
APPEALS OFFICE

V.

DOCKET No. 24-0720

Executive Office of Health and
Human Services

DECISION

I. INTRODUCTION

A telephonic hearing on the above-entitled matter came before an Appeals Officer on May 6, 2024, with the Executive Office of Health and Human Services (hereinafter "EOHHS") and [REDACTED] (hereinafter "Appellant"). The Appellant initiated this matter to appeal EOHHS' decision to request the reimbursement of the Appellant's RItE-Share related overpayment of \$966 and EOHHS' decision to refer the Appellant's Medicaid benefit overpayment related-debt to the Rhode Island Division of Taxation for an offset of her state income tax refund. For the reasons discussed in more detail below, the Appellant's Appeal is denied.

II. JURISDICTION

EOHHS is authorized and designated by R.I.G.L. § 42-7.2-6.1 and EOHHS regulation 210-RICR-10-05-2 to be the entity responsible for appeals and hearings related to EOHHS programs. The Administrative Hearing was held in accordance with the Administrative Procedures Act, R.I.G.L. § 42-35.1 et seq., and EOHHS regulation 210-RICR-10-05-2.

III. ISSUE

Is the Appellant required to reimburse EOHHS for the total Medicaid benefit overpayment of

\$966 and did EOHHS refer the Appellant's Medicaid benefit overpayment-related debt to the Rhode Island Division of Taxation for an offset of her state income tax refund in compliance with state and federal regulations?

IV. STANDARD OF PROOF

It is well settled that in formal or informal adjudications modeled on the Federal Administrative Procedures Act, unless otherwise specified, a preponderance of the evidence is generally required to prevail. See (2 Richard J. Pierce, *Administrative Law Treaties* §10.7 (2002) & *Lyons v. Rhode Island Pub. Employees Council 94*, 559 A.2d 1130, 134 (R.I. 1989) (preponderance standard is the "normal" standard in civil cases)). This means that for each element to be proven, the factfinder must believe that the facts asserted by the proponent are more probably true than false. When there is no direct evidence on a particular issue, a fair preponderance of the evidence may be supported by circumstantial evidence. See (*Narragansett Electric Co. vs. Carbone*, 898 A.2d 87 (R.I. 2006)).

VI. PARTIES AND EXHIBITS

Present for EOHHS was Associate Director of Medicaid, Lissa DiMauro (hereinafter "Associate Director DiMauro"), and Programming Services Officer, Katelyn Tavares. Associate Director DiMauro provided testimony regarding the case and offered the following exhibits as evidence:

Exhibit #1 – Case Summary for Case # [REDACTED]

Exhibit #2 -- Rhode Island Medicaid Management Information System Rite Share Member Payment Report, Run Date: February 10, 2023.

Exhibit #3 – Tax-Intercept Notice, Date: April 24, 2023.

Exhibit #4 – Tax-Intercept Notice, Date: June 26, 2023.

Exhibit #5 – Rhode Island General Laws §44-30.1-3, Title 44 - Taxation, Chapter 30.1 - Setoff of Refund of Personal Income Tax.

Exhibit #6 – 210-RICR-10-00-6 et seq. Title 210 – Executive Office of Health and Human Services, Chapter 10 – EOHHS General Provisions, Subchapter 00 – Collection of Overpayments Via State Tax Refund Offset.

The Appellant was present and testified on her own behalf. She did not present any exhibits as evidence.

VII. RELEVANT LAW/REGULATIONS

Under the terms of Section 1906 of Title XIX of the U.S. Social Security Act, states are permitted to pay an eligible individual's share of the costs for enrolling in employer-sponsored health insurance coverage if it is cost effective to do so. R.I. General Laws §40-8.4-12 authorized the Medicaid agency to establish the RItE Share Premium Assistance Program to subsidize the costs of enrolling Medicaid eligible individuals and families in employer-sponsored health insurance (hereinafter "ESI") plans that have been approved as meeting certain cost and coverage requirements (RItE Share-approved). See (210-RICR-30-05-3.1).

Under the RItE Share Premium Assistance Program, the State pays the employee's premium. See (210-RICR-30-05-3.7(A)). EOHHS pays the employee directly for their share of the ESI. See (210-RICR-30-05-3.7(A)(1)(a)). For RItE Share enrollees, EOHHS pays for any ESI co-insurance and deductibles. (Co-pays are not covered by EOHHS, but as long as the RItE Share enrollee seeks services from a participating Medicaid provider, the RItE Share enrollee cannot be billed for copayments by that provider.) RItE Share Enrollees are notified of the cost sharing policy through their initial enrollment notice. See (210-RICR-30-05-3.7(A)(2)).

All Medicaid applicants and beneficiaries must cooperate with the non-financial requirements for eligibility which includes the duty to provide reports to EOHHS indicating any changes in enrollment status of Medicaid-eligible family members, enrollment costs, household composition, employment,

income, residence, and access to ESI plans within ten (10) days from the date the change occurs. See (210-RICR-30-05-3.22(A)(2)(c)).

“Medicaid benefit overpayment” means any amount paid to or on behalf of a Medicaid beneficiary for a Medicaid benefit to which the beneficiary was not entitled to, including but not limited to, an overpayment of a RItE Share premium. See (210-RICR-10-00-6.2(A)(1)).

EOHHS has the authority to recover Medicaid benefit overpayment claims through offset of the individual State income tax refund in accordance with Rhode Island General Laws §§44-30.1-1, 44-30.1-3, 44-30.1-4, and 44-30.1-8 in R.I. General Laws Chapter 44-30.1 entitled ‘Setoff of Refund of Personal Income Tax.’ See (210-RICR-30-05-3.7(A)(4)). EOHHS must notify the individual of the intended action prior to offset and of her or his appeal rights. See (210-RICR-10-00-6.3 et seq.).

Within a time frame established by the division of taxation, the claimant agency shall supply the information necessary relative to each debtor owing the state money, and further, shall certify the amount of debt or debts owed to the state by each debtor. Upon receiving notice from the claimant agency that a named debtor owes medical assistance benefit overpayments, the division of taxation shall determine whether any amount, as a refund of taxes paid, is payable to the debtor, regardless of whether the debtor filed an income tax return as a married or unmarried individual. If the division of taxation determines that any refund is payable, the division of taxation shall set off the medical assistance benefit overpayments against the debtor’s refund and shall reduce the debtor’s refund by the amount so determined. The pendency of judicial proceedings to contest the setoff shall not stay nor delay the setoff and transfer of refunds to the claimant agency. If the amount of the debtor’s refund exceeds the amount of the past-due medical assistance benefit overpayments, the division of taxation shall refund the excess amount to the debtor. See (Rhode Island General Law §44-30.1-3).

VIII. FINDINGS OF FACT

1. The Appellant participated in the RItE Share Premium Assistance Program from February 1, 2014, through October 31, 2022. The Appellant was initially approved for the RItE Share Premium Assistance Program because she was employed by [REDACTED] and enrolled in the employer's ESI.
2. The Appellant ended her employment with [REDACTED] on March 16, 2022, and she started a new job with [REDACTED].
3. The Appellant testified that she called both the Department of Human Services (hereinafter "DHS") and EOHHS to notify them of the change of employment in March 2022.
4. Associate Director DiMauro testified that it did appear that the Appellant notified DHS of the change of employment in April 2022, and that this would typically trigger a task for EOHHS to follow up with the Appellant because her previous employment with [REDACTED] was end-dated in the RI Bridges system.
5. Associate Director DiMauro stated that, for some reason, a task was not generated to notify EOHHS to follow up with the Appellant about her RItE Share Premium Assistance Program case.
6. Associate Director DiMauro stated that there was no record of the Appellant calling the RItE Share Unit in March or April of 2022.
7. The Appellant called the RItE Share Unit in October 2022 to report that her employment with [REDACTED] ended and to see if her new employer's ESI was eligible for the RItE Share Premium Assistance Program. The Appellant was disenrolled from RItE Share Premium Assistance Program as of October 31, 2022.
8. The Appellant received monthly payments of \$362.27 for her ESI premiums from July 2022 to October 2022.
9. In January 2023, the RItE Share Unit realized that [REDACTED] family plan health insurance rate decreased, effective July 1, 2022, from \$362.27 to \$120.77 a month. This resulted

in the Appellant receiving a Medicaid benefit overpayment of \$241.50 per month for the months of July 2022, August 2022, September 2022, and October 2022.

10. The RIte Share Unit sent the Appellant a Rhode Island Medicaid Management Information System RIte Share Member Payment Report on February 10, 2023, showing the Appellant that she was overpaid for her monthly ESI premiums from July 2022 to October 2022. This document stated that the Appellant owed \$966.00 for the four months of Medicaid benefit overpayments that she received in 2022.
11. On April 24, 2023, EOHHS sent the Appellant a notice that her debt of \$966 in Medicaid benefit overpayments would be submitted to the Rhode Island Division of Taxation so that it could collect the overpayments via a state income tax refund offset unless the Appellant repaid her debt in full by May 25, 2023.
12. On June 26, 2023, EOHHS sent a second and final notice that the Appellant's debt of \$966 in Medicaid benefit overpayments was being submitted to the Rhode Island Division of Taxation so that it could collect the overpayments via a state income tax refund offset.

IX. DISCUSSION

EOHHS testified that the Appellant was enrolled in the RIte Share Premium Assistance Program from February 1, 2014, through October 31, 2022. EOHHS paid the Appellant to reimburse her for the ESI premiums associated with her employment with [REDACTED]. After discovering that the Appellant's ESI premiums were reduced from \$362.27 to \$120.77 a month, starting in July 2022, EOHHS realized that this resulted in Medicaid benefit overpayments of \$241.50 per month for the months of July 2022, August 2022, September 2022, and October 2022. These four Medicaid benefit overpayments totaled \$966. EOHHS' position is that because the Appellant continued to accept payments for which she was not eligible to receive, the Appellant is required to reimburse EOHHS for the total Medicaid benefit overpayment of \$966.

The Rhode Island Medicaid Management Information System RItE Share Member Payment Report, Run Date: February 10, 2023, shows that the Appellant was overpaid for the months of July 2022, August 2022, September 2022, and October 2022. The Appellant testified that she contacted DHS and the RItE Share Unit in March 2022 to inform the agencies that she changed jobs. EOHHS does not dispute the fact that the Appellant contacted DHS about the change of employment that occurred in March 2022. EOHHS does dispute the fact that the Appellant called the RItE Share Unit to report the change before October 2022, as EOHHS testified that there was no evidence to show that the Appellant called the RItE Share Unit in either March or April of 2022. The issue of whether the Appellant called the RItE Share Unit in March or April of 2022 is irrelevant as the Appellant has a responsibility to repay any Medicaid benefit overpayments that she received in 2022, regardless of whether she did or did not call the RItE Share Unit prior to October 2022.

As the Appellant received Medicaid benefit overpayments totaling \$966 for the four months of July 2022, August 2022, September 2022, and October 2022, she has an obligation to repay her debt to EOHHS. The Appellant was sent a Rhode Island Medicaid Management Information System RItE Share Member Payment Report on February 10, 2023, showing the Appellant that she was overpaid for her monthly ESI premiums from July 2022 to October 2022, and that the Appellant had an obligation to repay her debt of \$966 to EOHHS. The Appellant was also sent a notification on April 24, 2023, informing her that she had until May 25, 2023, to repay her debt of \$966 to EOHHS so that she could prevent her tax refund from being offset by the Rhode Island Division of Taxation. EOHHS has the authority to recover Medicaid benefit overpayment claims through offset of the individual state income tax refund and because the Appellant did not repay her debt of \$966 to EOHHS by May 25, 2023, EOHHS' decision to refer the Appellant's debt to the Rhode Island Division of Taxation is permissible under state regulations and laws.

X. CONCLUSION OF LAW

After careful review of the testimony and evidence present at the administrative hearing, this Appeals Officer concludes that:

1. The Appellant received Medicaid benefit overpayments for the months of July 2022, August 2022, September 2022, and October 2022, totaling \$966.
2. EOHHS sent a Rhode Island Medicaid Management Information System Rite Share Member Payment Report to the Appellant on February 10, 2023, showing that she was overpaid for her monthly ESI premiums from July 2022 to October 2022, and that the Appellant had an obligation to repay her debt of \$966 to EOHHS.
3. EOHHS sent the Appellant a notification on April 24, 2023, informing her that she had until May 25, 2023, to repay her debt of \$966 to EOHHS so that she could avoid having her state tax refund offset by the Division of Taxation.
4. The Appellant did not repay her debt of \$966 to EOHHS.
5. There is a preponderance of evidence to show that EOHHS' decision to refer the Appellant's debt of \$966 to the Rhode Island Division of Taxation for an offset of the Appellant's tax refund is permissible under State regulations and laws.

XI. DECISION

Based on the foregoing findings of fact, conclusions of law, evidence, and testimony it is found that a final order be entered that there is sufficient evidence to support EOHHS' decision to refer the Appellant's debt of \$966 to the Rhode Island Division of Taxation for collection for an offset of her state personal income tax refund.

APPEAL DENIED

/s/ Jack Peloquin

Jack Peloquin

Appeals Officer

NOTICE OF APPELLANT 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 an 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.

CERTIFICATION

I hereby certify that I mailed, via regular mail, postage prepaid, a true copy of the foregoing to

; copies were sent, via email to

Lissa DiMauro and Katelyn Tavares on this 20th day of MAY,
2024.

Amanda Mitchell