

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

Docket Number: 24-1628

V.

Department of Human Services

DECISION

I. JURISDICTION

The Executive Office of Health and Human Services (“EOHHS”) is designated by R.I. Gen. Laws § 42-7.2-6.1(2) to be the entity responsible for legal service functions, including appeals and hearings, law interpretation and related duties of itself and four agencies; one of which is the Department of Human Services (“DHS” or “the Department”). Hearings are held in accordance with the Administrative Procedures Act (R.I. Gen. Laws § 42-35.1 et. seq.).

II. INTRODUCTION

The Appellant initiated this matter to EOHHS regarding Health Coverage. The Appellant disagreed with a department decision regarding their Long-Term Care and Social Supports (“LTSS”) coverage.

A telephonic hearing on the above-entitled matter was conducted on July 31, 2024. For the reasons discussed in this decision, the Appellant’s appeal is granted in part and denied in part.

III. ISSUES

The issue before this Appeals Officer was whether or not the Appellant’s benefits were decided in accordance with 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. (2 Richard J. Pierce, Administrative Law Treaties § 10.7 (2002) & see Lyons v. Rhode Island Pub. Employees Council 94, 559 A.2d 130, 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. (Id.). When there is no direct evidence on a particular issue, a fair preponderance of the evidence may be supported by circumstantial evidence. (Narragansett Electric Co. vs. Carbone, 898 A.2d 87 (R.I. 2006))

V. PARTIES AND EXHIBITS

The Department was represented by Glenda Ramos, Eligibility Technician III.

The Appellant did not appear but was represented by Shamus Durac, Esq., Staff Attorney, Rhode Island Parent Information Network. The Appellant submitted the following evidence that was marked as: Exhibit 1 a Hearing Brief; Exhibit 2 Appellant’s signed release of information and Appeal Appointment of Representation form; Exhibit 3 January 2, 2024, Benefits Decision Notice (“BDN”) from DHS; and Exhibit 4 Stipulation.

The Administrative record contained the appeal request form with supporting documents, email communications from the Appellant and EOHHS, and various letters sent to the Appellant by EOHHS.

VI. RELEVANT LAW/REGULATIONS

The Medicaid State Agency is authorized under Title XIX and federal implementing regulations to enter into agreements with other State agencies for the purposes of determining

Medicaid eligibility. EOHHS has entered into a cooperative agreement with DHS that authorizes the Department to conduct certain eligibility functions. In accordance with the Code of Federal Regulations (“CFR”) 42 CFR 431.10(e)(3), DHS has agreed to carry out these functions in accordance with the Medicaid State Plan, the State’s Section 1115 demonstration waiver, and the rules promulgated by EOHHS. (210-RICR-10-00-1.4(B))

Per, 42 CFR 435.917 the agency must provide all applicants and beneficiaries with written notice of any decision affecting their eligibility. Any notice of an approval of Medicaid eligibility must include (a) the basis and effective date of eligibility; (b) the circumstances under which the individual must report and changes; (c) the amount of medical expenses that must be incurred to meet a spenddown; (d) basic information on the level of benefits and services available based on the individual’s eligibility including, a description of any premiums and cost sharing, an explanation of how to receive additional detailed information on benefits and financial responsibilities and an explanation of the right to appeal.

VII. FINDINGS OF FACTS

1. The Appellant received the following BDN’s:
 - a) December 2, 2023, which stated that the Department of Behavioral Healthcare, Developmental Disabilities & Hospitals (“BHDDH”) self-directed coverage was being terminated as of December 31, 2023.
 - b) January 2, 2024, (exhibit 3) which stated that due to a change in eligibility LTSS – Home and Community Based Services (“HCBS”) was approved as of January 1, 2024 – June 30, 2024.

2. On January 4, 2024, the Appellant submitted an Appeal Request Form, a request for DHS's evidentiary packet and an informal resolution request to EOHHS, which was forwarded to DHS.

3. The Appellant maintained there was no change in any eligibility factors and requested coverage be restored. The informal resolution proposed that the Appellant agreed to withdraw the appeal request if the Department signed a stipulation and agreed to the following: (exhibit 5).

- a) The Appellant's Medicaid LTSS coverage and BHDDH waiver services have been restored with retroactive effect dating back to the original termination on December 31, 2023.
- b) The Appellant's Medicaid LTSS coverage transitioned from MAGI -LTSS to LTSS - HCBS services (related to his receipt of Social Security Income ("SSI")) effective March 1, 2024, with no consumer cost-share.
- c) The Appellant's BHDDH waiver services will continue unchanged without regard to the change in LTSS services from MAGI - LTSS to SSI LTSS - HCBS.
- d) The parties agree that any future termination of the Appellant's Medicaid coverage will be accompanied with advance written notice and will generate a new right to appeal.

4. A supervisor from the Department responded to the informal resolution request on July 18, 2024, via email and confirmed that the issue was resolved and that the case now met the terms of the stipulation.

5. The Appellant chose to move forward to a hearing, despite the above representation from the Department.

VIII. DISCUSSION

The Department testified that per the Appellant's informal resolution request corrective measures were taken on July 5, 2024, and their position was that the issue was resolved. DHS attested that per the information in their eligibility system RI Bridges and information verified in the Medicaid Management Information System ("MMIS"), the Appellant's coverage had been restored retroactive to the closure date of January 1, 2024, with no lapse in coverage. The Department admitted that when changes were made on July 5, 2024, no notice was sent to the Appellant.

The Appellant's eligibility was not in question as the Department already made the requested changes. The Appellant was reluctant to take the Department's representation alone that the coverage had, in fact, been restored. The Appellant stated conflicting information had been given to them by DHS in the past regarding this matter. The Appellant agreed to accept the validity of the testimony based on MMIS, which is one of the verification sources cited by DHS, as a repository of information about current Medicaid enrollment status. However, the Appellant insisted that the Department sign the stipulation.

The Appellant's request for an evidentiary packet was not met by DHS, however, there is no dispute that DHS did provide credible testimony that the Appellant's benefits were restored as requested. While the Department representative did not have the authority to sign the stipulation, the supervisor had already informed the Appellant this matter was resolved. When the draft stipulation was reviewed at the hearing, DHS agreed that each condition had been met.

IX. CONCLUSION OF LAW

After review of the Administrative record, this Appeals Officer concluded that although the Department took corrective measures to resolve this appeal, the evidence did not support that their actions were in accordance with regulations.

As per, 42 CFR 435.917 an agency must provide all beneficiaries with timely and adequate written notice of any decision affecting their eligibility, the record was void of such notice.

X. DECISION

Based on the foregoing Findings of Facts, Conclusion of Law, evidence, and testimony it is the order of this Appeals Officer that:

The Appellant's appeal is denied in part, as DHS will not be required to sign the stipulation agreement.

The Appellant's appeal is also granted in part, as required by the governing Federal guidelines, DHS must issue a BDN to reflect the July 5, 2024, action restoring the Appellant's benefits to January 1, 2024. The Department will have thirty days or until the close of business on September 20, 2024, to issue said notice.

/s/Holly Young | Appeals Officer | Executive Office of Health and Human Services

NOTICE OF APPELLANT RIGHTS

This Final Order constitutes a final order of the Departments of Human Services pursuant to the RI General Laws §42-15-12. Pursuant to RI General Laws §43.35.15, 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.

CERTIFICATION

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

_____ and via email at

_____.com; _____ at via

email at _____; Attorney Shamus Durac, Esq., Rhode Island Parent

Information Network, 300 Jefferson Boulevard, Suite 300, Warwick, RI 02888 and via email at

sdurac@ripin.org; copies were sent electronically to agency representatives Rebecca Cahoon,

Rose Leandre, Robert Paliotta, Glenda Ramos, Iwona Ramian, Esq., the DHS Appeals Unit and

the DHS policy unit 23rd day of August, 2024.

