

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

████████████████████

V.

DOCKET No. 24-3156 &

No. 24-2706

DEPARTMENT OF HUMAN
SERVICES

DECISION

I. INTRODUCTION

A telephonic hearing on the above-entitled matter came before an Appeals Officer on July 29, 2024. ██████████ (Appellant) initiated this matter to appeal the Child Care Assistance Program (CCAP) denial made by the Department of Human Services (DHS). For the reasons discussed in more details below, the Appellant's appeal is granted.

II. JURISDICTION

The Executive Office of Health and Human Services (hereinafter "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 DHS 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

The issue before this Appeals Officer is whether DHS properly closed the Appellant's CCAP case in accordance with Federal and State policy.

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. TRAVEL OF THE CASE

After the telephonic hearing took place on July 29, 2024, the record was held open until the close of business on August 9, 2024, for the parties to submit additional evidence. Only the Appellant provided additional evidence during this period (Exhibits #3-5). DHS did not respond to the Appellant's additional evidence by the August 16, 2024, response deadline.

VI. PARTIES AND EXHIBITS

Present for DHS was Senior Casework Supervisor Michaela Miller (DHS), who provided testimony regarding the case, but did not submit any documentary evidence. The Appellant provided testimony, and offered the following into evidence:

- Exhibit #1: Emailed recap of Appellant's conversations with DHS, including screenshot of CCAP Family Co-Share Levels- 2024 Annual Federal Poverty Level (FPL), effective 2/18/24

- Exhibit #2: Paystubs for Appellant and spouse
- Exhibit #3: CCAP Family Co-Share Levels – 2023 annual FPL and monthly FPL, both effective 4/1/23
- Exhibit #4: CCAP Family Co-Share Levels- 2024 annual FPL and monthly FPL, both effective 2/18/24
- Exhibit #5: 2024 Poverty Guidelines: 48 Contiguous States (all states except Alaska and Hawaii)

VII. RELEVANT LAW/REGULATION

CCAP eligibility is determined by DHS through three avenues, including RI Works CCAP eligibility, income eligibility, and CCAP for college eligibility. Families may be eligible for CCAP, and partial or full payment of child care expenses when delivered by a CCAP-approved child care provider, if their incomes are at or below the 200 percent (200%) FPL, and they meet the program requirements. See 218 RICR 20-00-4 §4.3(A). Applicant children must be over one (1) week old and below the age of thirteen (13), or thirteen (13) through eighteen (18) with a documented physical or mental disability making them incapable of self-care. If the child turns thirteen (13) years during the certification period, he/she remains eligible until redetermination, according to 218 RICR 20-00-4 §4.3.1(A)(1)(a).

To be authorized for CCAP, there must be an “acceptable need” in a two-parent home. For example, each parent must work a minimum of twenty (20) hours per week in a month, and CCAP services are needed in order to work. See 218 RICR 20-00-4 § 4.6.2(A)(1)(a).

Transitional Child Care allows families currently eligible for child care to continue to receive child care after their income exceeds two hundred percent (200%) of the FPL, as long as their income remains below three hundred percent (300 %) of the FPL. When the family’s income rises above three hundred percent (300 %), the family is no longer eligible, and eligibility for transitional child care will be determined at normal recertification times. See 218 RICR 20-00-4 §4.6.1(A)(1)(a). To determine eligibility for CCAP, prospective budgeting is used, and weekly income for these cases is converted to a monthly amount using the 4.3333 weeks per month conversion method. With biweekly paystubs, the

agency representative converts the income into a monthly amount by multiplying the income by 2.1666. See 218 RICR 20-00-4 §4.6.1(A)(1)(c)(1) and 218 RICR 20-00-1 §1.6.8(5)(a)(b).

VIII. FINDINGS OF FACT

1. The Appellant is part of a two-parent household and was previously approved for CCAP, Transitional Child Care, for his three (3) children.
2. Both the Appellant and spouse are working, and paid biweekly. The Appellant testified their monthly income is \$9,133.01. The spouse averages 40 hours a week, and the Appellant is a salaried employee.
3. The Appellant testified that he has a family of six (6) and should continue to be eligible for Transitional Child Care given program guidelines.
4. The Appellant filed two appeals regarding his case closure, one on April 24, 2024, in response to an April 19, 2024, Benefit Decision Notice (BDN) stating he failed to provide required information, and another on May 1, 2024, in response to an April 25, 2024, BDN stating that the household exceeded the income limit for the program. The Appellant stated he filed all his paperwork – proof of income and Recertification, on time.
5. The Appellant testified that he thought the CCAP denial was for failure to submit documentation, but DHS testified that was no longer the case, and that CCAP closed due to his household being over the income limit for the program.
6. The Appellant testified the DHS website shows a \$10,490.00 monthly income threshold for a family of six (6) in the transitional child care category at three hundred (300%) FPL.
7. DHS testified that the Appellant was over income at Recertification and was denied Child Care because his household's monthly income was \$8,664.08, which exceeds the \$8,099.00 limit for his household size at the three hundred percent (300 %) FPL.

8. DHS testified that the Appellant's Child Care closed April 28, 2024. DHS testified it was reinstated because it was processed incorrectly, but was closed again, as the household was still deemed to be over income.

IX. DISCUSSION

The Appellant states that he qualifies for Transitional Child Care, which is determined at the higher three hundred percent (300%) FPL, and questions where DHS is getting its income limit figures, as the DHS website clearly states the monthly income limit for his household size for Transitional Child Care is \$10,490.00 (as of February 18, 2024). In addition, the monthly income limit for a household of six (6) for Transitional Child Care in 2023 was \$10,070.00.

The Appellant calculated his monthly income at \$9,133.01, which is still under the \$10,490.00 income limit, while DHS testified his monthly income was lower, at \$8,664.08. The Appellant said he based his calculation on his income, his spouse's income, and his annual bonus, which he broke up into twelve (12) monthly payments, amounting to \$318.75 a month. The bonus was not included in the \$8,664.08 calculation by DHS.

If DHS were calculating the Appellant's income as if he were a new Child Care applicant, which requires applicants to be at or below two hundred percent (200%) of the FPL based on family size, the income limit would be \$6,993.00 in 2024, not \$8,099.00. It is unclear where the latter figure came from as no evidence was submitted by DHS explaining how it concluded that the Appellant was over income. Biweekly paystubs submitted show gross pay for the Appellant of \$2,280.68 for February 29, 2024, and \$2,341.42 for March 15, 2024, and for his spouse, \$1,976.80 for March 15, 2024, and \$1,923.20 for March 29, 2024, totaling \$8,522.10. Averaging the income, the monthly amount is \$9,232.00, again below the \$10,490 limit for Transitional Child Care. Eligibility for Transitional Child Care is determined at normal Recertification times, according to 218 RICR 20-00-4 §4.6.1(A)(1)(a)(4).

Given the absence of documentary evidence from DHS, this Appeals Officer concludes that the Appellant was incorrectly denied for CCAP and should be eligible under the Transitional Child Care guidelines.

X. CONCLUSION OF LAW

After careful review of the testimony and evidence present at the Administrative Hearing, this Appeals Officer concludes:

1. The Appellant should be eligible for Transitional Child Care as his household income falls within the income limits for his household size.
2. The Appellant and his wife are both employed and working the requisite number of hours to qualify for Child Care.

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 not sufficient evidence to support the CCAP closure.

ACTION TO BE TAKEN BY DHS

Before the close of business on October 3, 2024, DHS must reopen the Appellant's CCAP case from the April 28, 2024, closure date and restore their Transitional Child Care benefits.

APPEAL GRANTED

/s/ Lori Stabile

Lori Stabile

Appeals Officer

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.

CERTIFICATION

I hereby certify that I mailed, via regular mail, postage prepaid, a true copy of the foregoing to [REDACTED]; and copies were sent, via email, to [REDACTED], and DHS Representatives Michaela Miller, Christine Mitchell, Julie Neuman, Denise Tatro and Vania Rebollo, and the DHS Policy Office on this 23rd day of September, 2024.


