

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

V.

DOCKET No. 24-3304

Department of Human Services

**DECISION**

**I. INTRODUCTION**

A telephonic hearing on the above-entitled matter came before an Appeals Officer on July 15, 2023. The Appellant, [REDACTED], initiated this matter to appeal the Childcare Assistance Program (“CCAP”) case closure made by the Department of Human Services (“DHS”). DHS’ position is that the Appellant’s Appeal was filed on May 16, 2024, which exceeds the thirty (30) day deadline to file an appeal for CCAP as explained in the Benefit Decision Notice, dated February 23, 2024, that was sent to the Appellant. The Appellant is requesting to waive the timeliness of her Appeal. For the reasons discussed in more detail below, the Appellant’s Appeal is denied.

**II. JURISDICTION**

The Executive Office of Health and Human Services (“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**

Did the Appellant provide sufficient good cause to accept the untimely filing of her CCAP case Appeal?

**IV. STANDARD OF PROOF**

It is well settled that in formal or informal adjudications modeled on the Federal Administrative Procedures Act, the initial burdens of production and persuasion rest with the moving part. See (2 Richard J. Pierce, Administrative Law Treaties §10.7 (2002). Unless otherwise specified, a preponderance of the evidence is generally required in order to prevail. See (*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)).

**V. PARTIES AND EXHIBITS**

Present for DHS was Eligibility Technician, Jeremy Ulhin, who provided testimony regarding the case and offered the following exhibits into evidence:

Exhibit #1 – Appeal file for Case [REDACTED]

Exhibit #2 – Benefit Decision Notice, Date: January 19, 2024.

Exhibit #3 – CCAP Recertification/Renewal Notice, Date: December 1, 2023.

Exhibit #4 – Benefit Decision Notice, Date: February 23, 2024.

Exhibit #5 – Equifax – The Work Number - Employment Verification for the Appellant.

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

## **VI. RELEVANT LAW/REGULATIONS**

Per EOHHS regulations, each agency must include in the benefit notice how long an individual has to file an appeal. See (210-RICR-10-05-2.2.1(A)(1)(a)). DHS shall send timely and adequate notice of any decisions that adversely affect a family's CCAP eligibility or the scope of authorized services that explain the family's right to request a hearing within thirty (30) days of the date of the notice. See (218-RICR-20-00-4.10.1(A)(1)(b) et seq.).

The Appeals Office permits appeals that are untimely to go forward, if good cause can be established for the delay in filing of an appeal. Good cause claims include, but are not limited to, sudden and unexpected events, such as loss or breakdown of transportation; events beyond the individual's control, which prevent the Appellant from being timely; disabilities, such as linguistic and behavioral health limitations; illness or injury of the Appellant or Appellant's household, or a death in the family. See (210-RICR-10-05-2.3.1(E)(3)).

## **VII. FINDINGS OF FACT**

1. DHS sent the Appellant a Benefit Decision Notice on February 23, 2024, showing that the Appellant's CCAP ended on February 3, 2024, and that the Appellant had thirty (30) days from the notice mail date to file an appeal of her CCAP case closure.
2. The Appellant neither confirmed nor denied that she received the Benefit Decision Notice, Date: February 23, 2024.
3. The Appellant testified that she was living at the address shown on the Benefit Decision Notice, Date: February 23, 2024.
4. The Appellant submitted an Appeal of her CCAP case closure on May 16, 2024.

## **VIII. DISCUSSION**

The Appeals Office permits appeals that are untimely to go forward, if good cause can be established for the delay in filing of an appeal. Good cause claims include, but are not limited to, sudden and unexpected events, such as loss or breakdown of transportation; events beyond the individual's control, which prevent the Appellant from being timely; disabilities, such as linguistic and behavioral health limitations; illness or injury of the Appellant or Appellant's household, or a death in the family. The Appellant missed the deadline to file an appeal for her CCAP case closure by over a month. While the Appellant neither confirmed nor denied that she received the Benefit Decision Notice, Date: February 23, 2024, she did confirm that the notice was sent to the correct mailing address. Therefore, there is a preponderance of evidence to show that DHS properly notified the Appellant of her CCAP case closure and her appeal rights. The Appellant testified that she filed this Appeal because she received a bill for childcare services rendered after her CCAP case closed. This explanation does not meet the criteria, as stated above, to establish good cause. Therefore, as the Appellant filed this Appeal past the 30-day deadline, this Appeals Office does not have jurisdiction to consider the subject matter of the Appeal and the merits of this case.

## **IX. CONCLUSION OF LAW**

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

1. DHS properly notified the Appellant of her CCAP case closure and her appeal rights, which stated that the Appellant had thirty (30) days from the notice mail date to file an appeal.
2. Per State Regulations, the Appellant's Appeal was not filed within the regulatory deadline to file an appeal for a CCAP case.
3. The Appellant failed to establish good cause for the untimely filing of this Appeal.
4. For the reasons stated above, this Appeals Office has no jurisdiction to explore any further matters in this case.

**X. DECISION**

Based on the foregoing findings of fact, conclusions of law, evidence, and testimony it is found that a final order be entered that the Appellant's request to waive the timeliness of her Appeal is dismissed and her request for relief is denied.

**APPEAL DENIED**

*/s/ Jack Peloquin*

Jack Peloquin

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 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 ██████████

████████████████████, and to Jeremy Ulbin, the DHS Appeals Unit at [dhs.appeals@dhs.ri.gov](mailto:dhs.appeals@dhs.ri.gov), and to

the DHS Policy Office at [dhs.policyquestions@dhs.ri.gov](mailto:dhs.policyquestions@dhs.ri.gov) on this 18<sup>th</sup> day of

July, 2024.

Samoa Miranda