

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

[REDACTED]

V.

DOCKET No. 24-3311

DEPARTMENT OF HUMAN
SERVICES

DECISION

I. INTRODUCTION

A telephonic hearing on the above-entitled matter was held on July 31, 2024. The Appellant, [REDACTED], initiated this matter to appeal the Medical Assistance (MA) denial by the Department of Human Services (DHS). For the reasons discussed in more details below, the Appellant's appeal is dismissed.

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. ISSUES

The issues before this Appeals Officer are whether the Appellant filed his appeal timely and if the Medicaid denial was done in compliance 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. PARTIES AND EXHIBITS

Present for DHS was Supervising Eligibility Technician Stephanie Arel who provided testimony regarding the case. DHS offered the following exhibit into evidence at hearing:

Exhibit #1: Appeal filed May 13, 2024, regarding July 12, 2023 Benefits Decision
Notice (BDN)

The Appellant testified on his own behalf with the help of an interpreter, and did not submit any evidence.

VI. RELEVANT LAW/REGULATIONS

Notices must include language regarding appeal rights, and timelines to file appeals. See 210-RICR-10-05-2.2.1(A)(1)(a). Medicaid appeals must be filed within thirty (30) days of the Agency action,

with thirty (30) days beginning five (5) days after the mailing date of the notice of the Agency action, for a total of thirty-five (35) days. See 210-RICR-10-05-2.2.1(A)(9).

VII. FINDINGS OF FACT

1. A BDN was issued July 12, 2023, stating the Medicaid closure effective August 1, 2023.
2. An appeal was filed May 13, 2024, regarding the Appellant's Medicaid eligibility.
3. DHS testified the appeal filed was well over 35-day timeframe to file an appeal.
4. The Appellant testified that he went into the [REDACTED] DHS office to get replacement Medicaid cards in May 2024, and that's how he found out his Medicaid had been cancelled, so he filed the appeal.
5. The Appellant testified he feels his wife's new job is what is making him ineligible for Medicaid.
6. DHS testified that in July 2023, the Appellant's RSDI income was \$1,627.90 a month, and his spouse was making \$3,200.00. DHS testified that the income limit for a household of two (2) at that time for Medicaid was \$1,133.00, and the Appellant's income exceeded that.
7. DHS testified that the July 2023 BDN stated the Appellant's flex spenddown as of August 1, 2023, was \$11,271.18, and the flex period was August 1, 2023 through January 31, 2024.
8. While the Appellant did not meet the spenddown, his Medicaid did not officially close until February 1, 2024, DHS testified.

VIII. DISCUSSION

For a decision to be based on the merits of an appeal, it first must be filed timely. The appeal was clearly filed well beyond the 35-day appeal deadline. The timelines for filing appeals were outlined in the July 2023 BDN the Appellant received that informed him about the Medicaid closure effective August 1, 2023. Appeals must be filed within thirty (30) days of the contested action. The thirty (30) days begins five (5) days after the mailing date of the intended agency action. See 210-RICR-10-05-2.2.1(A)(9).

There is no dispute that the BDN was sent in the Appellant's preferred language (Portuguese) to his address on record on July 12, 2023. The Appellant should have appealed the BDN when he received it in July 2023, but waited until May 2024, to file the appeal. Based on appeal regulations, the appeal should have been filed by August 17, 2023. See 210-RICR-10-05-2.2.1(A)(9). The appeal was filed on May 13, 2024, approximately ten (10) months late. As a result, the EOHHS Administrative Appeals Office does not have jurisdiction to hear the merits of the appeal.

IX. CONCLUSION OF LAW

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

1. The Appellant failed to appeal within the required timeframe.
2. The Appellant was given proper notice in his native language of the Agency action to be taken regarding his Medicaid, and informed of his appeal rights in the July 12, 2023, BDN.

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 appeal was not submitted timely. Therefore, the appeal is dismissed.

APPEAL DISMISSED

Lori Stabile

Lori Stabile

Appeals Officer

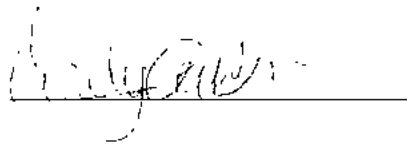
NOTICE OF APPELLATE RIGHTS

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]; copies were sent, via email, to [REDACTED], Marianne Nerbonne, Stephanie Arel, Denise Tatro and DHS.PolicyQuestions@dhs.ri.gov on this 12th day of September, 2024

A handwritten signature in black ink, appearing to be "D. J. [unclear]", is written over a horizontal line.