

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

V.

DOCKET No. 25-0019

Executive Office of Health and
Human Services

DECISION

I. INTRODUCTION

A Microsoft Teams meeting on the above-entitled matter came before an Appeals Officer on July 23, 2025, with the Executive Office of Health and Human Services (“EOHHS”) and [REDACTED] (hereinafter the “Appellant”). The Appellant declined the option of a video hearing. The Appellant initiated this matter to appeal against EOHHS’ decision to disenroll the Appellant from the Personal Choice Program as stated in the January 2, 2025, EOHHS Closure Notice. EOHHS testified that the Appellant was disenrolled from the Personal Choice Program because the Appellant was not in compliance with the following regulations: 210-RICR-50-10-2.6(B)(2)(e), 210-RICR-50-10-2.6(B)(2)(h), and 210-RICR-50-10-2.6(B)(2)(k). EOHHS testified that the Appellant repeatedly underutilized their monthly budget for the program and made attempts to spend their budget funds on non-allowable goods and services, that the Appellant refuses to cooperate with minimum program oversight activities, and that there is currently no Personal Choice Conflict-Free Case Management Agency that can provide proper service to the Appellant. The Appellant testified that she was not clearly informed by EOHHS as to the amount of extra funds she had available to use for a second care attendant and that per EOHHS the Appellant could only spend their excess budget funds on a back-up caregiver that could only provide services if their primary caregiver was unavailable. The Appellant also testified that their request for a

scooter should have been an allowable expense for their excess Personal Choice funds because it was not covered by Medicare and Medicaid. 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

Did EOHHS correctly disenroll the Appellant from the Personal Choice Program?

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).

V. PARTIES AND EXHIBITS

Diane Taft, Medical Care Specialist, and Karen Statser, attended the hearing on EOHHS' behalf and provided testimony. Marisa Ruff, President of Seven Hills of Rhode Island (hereinafter "Seven

Hills”), and Emma Larkin, Case Manager for Seven Hills, attended the hearing as witnesses for EOHHS and provided testimony. The following exhibit was offered as evidence by EOHHS:

Exhibit #1 – EOHHS Closure Notice, Date: January 2, 2025.

The Appellant was present and testified on their own behalf. The Appellant provided the following exhibit as evidence:

Exhibit #2 – Appeal Form, Date: January 10, 2025.

VI. RELEVANT LAW/REGULATIONS

A participant shall be involuntarily disenrolled from the Personal Choice Program for the following reasons:

1. The participant or representative is unable to manage the monthly budget as evidenced by repeatedly submitting time sheets for unauthorized budgeted amount of care; underutilizing the monthly budget, which results in inadequate services; and/or continuing attempts to spend budget funds on non-allowable goods and services.
2. The participant or representative refuses to cooperate with minimum program oversight activities, even when staff has made efforts to accommodate the participant.
3. No Conflict-Free Case Management Agency is able to provide proper service, such as the inability to meet repeated requests for services, satisfy participant needs, and/or provide the individual with a quality working relationship.

See 210-RICR-50-10-2.6(B)(2)(e,h,&k).

EOHHS shall notify the participant in writing that they intend to remove the participant from the Personal Choice Program, the reason for disenrollment, and shall inform the participant that services may be provided through Medicaid long-term care via a home health agency. See 210-RICR-50-10-2.6(B)(4).

Disenrollment is determined by the Conflict-Free Case Management Agency, and confirmed by EOHHS, based on an assessment in conjunction with the policies and procedures of that Agency, and/or the receipt of information from the Fiscal Intermediary or EOHHS. See 210-RICR-50-10-2.6(B)(5).

VII. FINDINGS OF FACT

1. In August 2024, the Appellant was enrolled in the Personal Choice Program, which is a self-directed program for individuals who are eligible for Long-Term Services and Supports Medicaid (LTSS). The Appellant's Personal Choice Program was managed by Seven Hills, a case management agency.
2. On August 26, 2024, the Appellant became dissatisfied with Seven Hills when the Appellant was informed that they would not be allowed to purchase a portable scooter with leftover monies from the Appellant's Personal Choice Program budget.
3. On August 31, 2024, two different Seven Hills' employees attempted to speak with the Appellant about their Personal Choice Program services and the Appellant hung up on them.
4. Per 210-RICR-50-10-2.6(B)(2)(h), Seven Hills is required to conduct monthly service advisement calls with the Appellant as the calls are a minimum program oversight activity.
5. Seven Hills considered the Appellant's decision to hang up on their staff members as a violation of 210-RICR-50-10-2.6(B)(2)(h).
6. On September 4, 2024, Seven Hills mailed the Appellant a letter explaining the Personal Choice Program guidelines and attempted to contact the Appellant. The Appellant did not respond to the letter and Seven Hills was unable to speak with the Appellant in September.
7. On October 11, 2024, Seven Hills sent the Appellant a certified letter regarding a possible Personal Choice Program closure due to the Appellant's refusal to comply the program's regulations. The Appellant refused to sign the letter, and it was returned to Seven Hills on October 24, 2024.

8. On November 14, 2024, Seven Hills sent another certified closure letter to the Appellant. The letter was signed and returned to Seven Hills.
9. Seven Hills disenrolled the Appellant from their case management services due to the Appellant's refusal to participate in monthly service advisement calls from August 2024 to November 2024.
10. EOHHS testified that they offered the Appellant a chance to remain enrolled in the Personal Choice Program if the Appellant could appoint a representative to manage their case and the requirements of the program.
11. The Appellant did not dispute Seven Hills' testimony that the Appellant hung up on Seven Hills' staff members, nor did the Appellant dispute not responding to Seven Hill's monthly service advisement calls or their subsequent letters.

VIII. DISCUSSION

As stated above, a participant shall be involuntarily disenrolled from the Personal Choice Program if the participant or representative is unable to manage the monthly budget as evidenced by underutilizing the monthly budget, which results in inadequate services and/or continuing attempts to spend budget funds on non-allowable goods and services. A participant may also be involuntarily disenrolled if the participant or representative refuses to cooperate with minimum program oversight activities, even when staff has made efforts to accommodate the participant, or if there is no Conflict-Free Case Management Agency that is able to provide proper service to the participant.

EOHHS testified that the Appellant was correctly disenrolled from the Personal Choice Program because the Appellant was disenrolled from the Seven Hills case management agency and the Appellant could not identify another case management agency nor a representative to manage their Personal Choice Program services. EOHHS further testified that the Appellant was disenrolled from case management services with Seven Hills because of the Appellant's failure to follow the rules of the Personal Choice Program. EOHHS also testified that the Appellant underutilized their monthly Personal Choice Program budget as they had leftover and unused funds for several months and that the Appellant made continued

attempts to spend budget funds on a scooter which is a non-allowable good because it is covered by Medicaid.

The Appellant testified that they underutilized their Personal Care Program funds because neither EOHHS nor Seven Hills could clearly explain the amount of extra funds the Appellant had available to spend on a second care attendant. The Appellant also testified that their excess Personal Choice budget funds could only be spent on a back-up caregiver, that could only provide services if their primary caregiver was unavailable. The Appellant further testified that their request to spend their Personal Choice Program budget funds on a scooter was justified because it was not covered by Medicare or Medicaid because it is a folding scooter. Lastly, the Appellant testified that she did not have a good working relationship with their former Seven Hills case manager because the case manager was often unavailable or failed to respond to the Appellant's phone calls and emails.

The Appellant's confusion as to how Personal Choice Program funds can be utilized speaks to the need for monthly service advisement calls because these issues could be discussed and resolved during the monthly calls. The record shows that the Appellant failed to participate in monthly service advisement calls from August 2024 to November 2024. Furthermore, the Appellant failed to accept and respond to Seven Hills' letter explaining the Personal Choice Program's regulations and the subsequent Seven Hills' closure letters. By refusing to participate in monthly service advisement calls the Appellant was in violation of 210-RICR-50-10-2.6(B)(2)(h), as the monthly service advisement calls constitute a minimum program oversight requirement. Because monthly service advisement calls constitute a minimum program oversight requirement, Seven Hills was required to disenroll the Appellant from their case management services after their attempts to conduct the monthly calls were ignored by the Appellant. Prior to disenrolling the Appellant, Seven Hills attempted to accommodate the Appellant by sending several letters and these were also ignored by the Appellant. After being disenrolled from Seven Hills' case management services, the Appellant was unable to identify a representative to manage the Personal Choice Program for them, nor could the Appellant identify an alternative case management agency to

provide services. Therefore, as there were no Conflict-Free Case Management Agencies available to provide proper services to the Appellant, EOHHS had an obligation to disenroll the Appellant from the Personal Choice Program. Because the Appellant refused to cooperate with minimum program oversight activities with Seven Hills and because the Appellant could not identify an alternative representative or Conflict-Free Case Management Agency, there is a preponderance of evidence to show that EOHHS correctly disenrolled the Appellant from the Personal Choice Program.

IX. CONCLUSION OF LAW

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

1. A participant shall be involuntarily disenrolled from the Personal Choice Program if the participant or representative refuses to cooperate with minimum program oversight activities, even when staff has made efforts to accommodate the participant.
2. The Appellant refused to engage in monthly service advisement calls with Seven Hills from August 2024 to November 2024.
3. Monthly service advisement calls are a minimum program oversight activity.
4. The Appellant failed to identify another representative or case management agency after being disenrolled from case management services through Seven Hills.
5. There is a preponderance of evidence to show that EOHHS correctly disenrolled the Appellant from the Personal Choice Program.

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 there is sufficient evidence to support EOHHS' disenrollment of the Appellant from the Personal Choice Program.

APPEAL DENIED

/s/ Jack Peloquin

Jack Peloquin

Appeals Officer

NOTICE OF APPELLATE RIGHTS

This final order constitutes a final order of the Executive Office of Health and 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 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

_____, Karen Statser, John Bonin, and Diane Taft on this

29th day of July, 2025.

Rebecca Loh