

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

██████████
For
██████████

DOCKET No. 25-1007

V.

Department of Human Services

DECISION

I. INTRODUCTION

A Microsoft Teams hearing was held on April 8, 2025. ██████████ (hereinafter the “Authorized Representative”) on behalf of ██████████ (hereinafter the “Appellant”), initiated this matter to appeal a decision made by the Department of Human Services (DHS), regarding a reassessment of the Appellant’s Personal Choice budget, which is a budget used to pay for self-directed care covered by Long-Term Services & Supports Medicaid (LTSS). The Authorized Representative declined the option for a video hearing. DHS’ position is that the Appellant’s Personal Choice budget reassessment is correct based upon the most recent functional assessment completed by Seven Hills of Rhode Island (hereinafter “Seven Hills”). The Authorized Representative asserts that the Appellant should be entitled to a higher Personal Choice budget. 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 and 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

Is DHS' approval for the Appellant's Personal Choice budget in compliance with Medicaid regulations and 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. 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

Eligibility Technician III, Michael Pangman, attended the hearing on behalf of DHS. DHS did not offer any exhibits as evidence.

The Appellant did not attend the hearing; however, the Authorized Representative attended the hearing and testified on the Appellant's behalf. The following exhibits were offered as evidence by the Authorized Representative:

Exhibit #1 – Paper Appeal Form received on February 21, 2025.

Exhibit #2 – EOHHS Personal Choice Budget Reassessment, Date: February 6, 2025.

VI. RELEVANT LAW/REGULATIONS

“Budget” means the amount of Medicaid funds set aside each month for the participant’s personal care and homemaker services. The budget is based on the amount of assistance the participant requires to meet their personal care needs as determined by the functional assessment. The budget is based on what EOHHS would normally spend to purchase services from a Home Health Agency for the services necessary to allow a participant to live at home. See (210-RICR-50-10-2.4(A)(4)).

Personal Choice monthly budgets are based on the functional assessment of participant need for hands-on assistance or supervision with ADLs (such as bathing, toileting, dressing, grooming, transfers, mobility, skincare, and / or eating) and IADLs (such as communication, shopping, housework, meal preparation, and/or food shopping), as described in § 2.9 of this Part and listed in the tables in § 2.15 of this Part. See (210-RICR-50-10-2.10(A)).

The functional assessment rates the participant’s level of assistance required to complete each task, and the number of times the task is performed. If there is a condition or characteristic in addition to the disability, the participant may require more time to complete a particular task. These conditions and / or characteristics do not apply to all ADL / IADL tasks; they only apply if the condition has a direct impact on the performance of the task. In addition to medical information and self-reporting, the assessor may observe or request that the participant demonstrate their ability to complete a task. See (210-RICR-50-10-2.9(B)).

Initial assessments occur upon entry to the Personal Choice program and reassessments occur annually thereafter. See (210-RICR-50-10-2.9(B)(1)).

The Conflict-Free Case Management Agency and Service Advisement Team will perform assessments to determine the individual’s budget and Individual Service and Spending Plan (ISSP). In accordance with the service provider agreements, a budget is developed based on the amount and level of assistance required, frequency of the task, and presence of any secondary conditions that would require a

need for more time to complete the task. There are six levels of assistance for each activity. See (210-RICR-50-10-2.10(B)).

Each Activity of Daily Living (ADL) and Instrumental Activity of Daily Living (IADL) has an amount of unit and / or functional time allowed to complete the task. The monthly figures for each ADL / IADL are added together to form a monthly budget. Taxes, worker's compensation insurance, and administrative costs are deducted from the Personal Choice participant's monthly budget. (210-RICR-50-10-2.10(B)(1)).

The budget amount is determined by EOHHS and may be subject to change. The budget funds are set aside by Medicaid for the purchase of assistance to meet individual participant needs. The participant determines what services are required and the amount the participant is willing to pay for those services from their budget. Participants determine the hourly wage for Personal Care Aides, which can range from \$15.00 up to \$21.00 per hour. The budget does not allow for companionship, watching, or general supervision of a participant. See (210-RICR-50-10-2.10(C)).

VII. FINDINGS OF FACT

1. The Appellant is currently enrolled in the Personal Choice program, which is a form of self-directed LTSS.
2. On February 4, 2025, Seven Hills completed a functional assessment with the Appellant for the Personal Choice program.
3. The EOHHS Personal Choice Budget Reassessment, Date: February 6, 2025, shows that the updated needs assessment resulted in no change in need and that the Appellant's budget remains the same as the previous budget.
4. DHS testified that the reassessment of the Appellant's Personal Choice budget is determined by the social work assessment completed by Seven Hills.

5. The Authorized Representative provided no testimony or evidence to show how the Appellant's Personal Care budget was improperly calculated or how Seven Hills improperly completed the Appellant's functional assessment.

VIII. DISCUSSION

As stated above Personal Choice monthly budgets are based on the functional assessment of participant need for hands-on assistance or supervision with ADLs and IADLs. The functional assessment rates the participant's level of assistance required to complete each task, and the number of times the task is performed. Each Activity of Daily Living (ADL) and Instrumental Activity of Daily Living (IADL) has an amount of unit and / or functional time allowed to complete the task. The monthly figures for each ADL / IADL are added together to form a monthly budget. The Conflict-Free Case Management Agency and Service Advisement Team will perform assessments to determine the individual's budget and Individual Service and Spending Plan (ISSP). In accordance with the service provider agreements, a budget is developed based on the amount and level of assistance required, frequency of the task, and presence of any secondary conditions that would require a need for more time to complete the task. The budget does not allow for companionship, watching, or general supervision of a participant.

DHS testified that the Appellant's Personal Choice budget is determined by the assessment recently completed by Seven Hills. DHS further testified that it supports the assessment completed by Seven Hills and that the Appellant's Personal Choice budget was correctly calculated based on that assessment.

The Authorized Representative stated on the Paper Appeal Form received on February 21, 2025, that she wanted to increase the Appellant's hours because six hours per week is not enough for him as he cannot stay alone for a long time. However, the regulations regarding Personal Choice budgets clearly state that the budget does not allow for companionship, watching, or general supervision of a participant.

Because the Appellant's Personal Choice monthly budget is based on the functional assessment of participant need for hands-on assistance or supervision with ADLs and IADLs completed by Seven Hills, and because the Authorized Representative failed to provide any evidence or testimony to show how the functional assessment completed by Seven Hills was incorrect, there is a preponderance of evidence to support DHS' approval for the Appellant's Personal Choice budget.

IX. CONCLUSION OF LAW

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

1. Personal Choice monthly budgets are based on the functional assessment of participant need for hands-on assistance or supervision with ADLs and IADLs.
2. Seven Hills completed the Appellant's most recent functional assessment.
3. The Authorized Representative failed to provide any evidence or testimony to explain how Seven Hills improperly completed the Appellant's most recent functional assessment.
4. There is a preponderance of evidence to support DHS' approval for the Appellant's Personal Choice budget.

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 DHS' approval for the Appellant's Personal Choice budget.

APPEAL DENIED

/s/ Jack Peloquin

Jack Peloquin

Appeals Officer

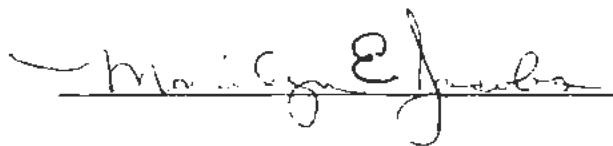
NOTICE OF APPELLATE RIGHTS

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 [REDACTED]; copies were sent, via email, to [REDACTED], Rebecca Cahoon, Rose Leandre, Jacqueline Neirinckx, Vanessa Ward, Michael Pangman, Laura Larrivee, Kirsten Cornford, the DHS Appeals Unit at DHS.Appeals@dhs.ri.gov, and the DHS Policy Office at dhs.policyquestions@dhs.ri.gov on this

22nd day of April, 2025.



Michael Pangman