

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

[REDACTED]

V.

DOCKET No.
25-2009 & 25-2566

The Department of Behavioral
Healthcare, Developmental
Disabilities and Hospitals

DECISION

INTRODUCTION

The Appellant, [REDACTED], initiated this matter to appeal the Goods and Services determinations made by the Department of Behavioral Healthcare, Developmental Disabilities & Hospitals (BHDDH). A Microsoft Teams hearing in this matter occurred on Monday, October 6, 2025, at 1:00 PM and continued on Thursday, October 23, 2025, at 2:00 PM. For the reasons discussed in more details below, the Appellant's appeal is denied.

JURISDICTION

The Executive Office of Health and Human Services (EOHHS) is authorized and designated by R.I.G.L. § 42-7.2-6.1, 210-RICR-10-05-2, and 212-RICR-10-05-1.6 to be the entity responsible for appeals and hearings related to BHDDH programs. The administrative hearing was held in accordance with 210-RICR-10-05-2 and the Administrative Procedures Act (R.I.G.L. § 42-35-1 et. seq.).

ISSUE

The issues are whether BHDDH Goods & Services denials were done in compliance with federal and state regulations. Specifically, the denial of coverage/payments to Dr. Jessica L. Hopkins, Psy.D. (Dr. Hopkins) and the reduction/denial in gardening therapy funding for the 2024-2025 & 2025-2026 plan years.

STANDARD OF PROOF

It is well settled that in adjudications modeled on the Federal Administrative Procedures Act a preponderance of the evidence is required to prevail. This means that for each element to be proven, the factfinder must believe that the facts asserted are more probably true than false. 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). 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).

PARTIES AND EXHIBITS

BHDDH Attorney Thomas Corrigan, Esq., BHDDH Coordinator of Community Planning & Development Jackie Camilloni, BHDDH Assistant Director of Developmental Disabilities Heather Mincey (October 6, 2025, only), Appellant's Mother and Representative [REDACTED], and the Appellant's Attorney Michael Castner, Esq. attended the hearing. The following exhibits were presented as evidence:

- Letter from [REDACTED] Attending Psychiatrist [REDACTED].
- Letters from [REDACTED] office dated December 1, 2023, & August 29, 2024.
- BHDDH Goods & Services Request Form, Page 4 of 6, completed by Jackie Camilloni on April 7, 2025.

- Breakdown of the Appellant's 2023 DDS expenses.
- Multiple email treads between [REDACTED], Jackie Camilloni, MaryBeth Stevens, Timothy Cronin, Heather Mincey, [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED].

RELEVANT LAW/REGULATIONS

BHDDH details the permissible uses for Goods & Services funds in their Technical Bulletin 19-02. Goods & Services help fund items intended to meet the needs and/or to help improve and/or maintain opportunities for full membership in the community. However, there are a set of limitations that are in place to determine what is covered. These limitations include:

- The good or service is not available through another funding source, such as health coverage (e.g., Medicare or Medicaid). Denial letters from other funding sources may be required before payment under Goods & Services are approved.
- The good or service cannot duplicate any Medicaid or waiver service.
- Medical procedures, doctor's visits, and co-payments for covered medical services are explicitly excluded from Goods & Services approval.

Annually, a BHDDH Developmental Disabilities Self-Directed participant works with a plan writer and a fiscal intermediary to create an individual service plan for a year period. Part of this plan creation is submitting for BHDDH approval any Goods & Services funding requests for the plan year. These requests are submitted approximately 45 days before the old plan ends so they can be reviewed and approved or denied by the time the new plan starts.

Medicaid pays providers directly. To be eligible for Medicaid payments, the provider must be a Medicaid provider under 210-RICR-20-00-1.

The Rhode Island Supreme Court has established that an administrative agency does not have equity powers in administrative hearings. See *Nickerson v. Reitsma*, 853 A.2d 1202 (RI 2004)

FINDINGS OF FACT

The Appellant has several medical conditions, including autism, anxiety, and obsessive-compulsive disorder. This causes the Appellant to be very limited in who they talk to, usually only talking to family members. The Appellant has been known to shut down to family as well. The Appellant is highly sensory sensitive. This results in them having a limited diet and avoiding showering for months on end. The Appellant's father was the Appellant's main support until the father's passing. After the father's passing, the Appellant had regressed and deteriorated in terms of managing his conditions and community involvement.

The Appellant is a Medicaid/BHDDH Developmental Disability participant. The Appellant is currently participating in BHDDH's Self-Directed program. This allows them to access Goods & Services funds to pay for goods and/or services that are not available through other funding sources but would benefit them in their needs and/or participating in the community.

██████████

Initially the Appellant was covered under their father's BlueCross/BlueShield plan and his Medicare and Medicaid plans. During this time the Appellant was being treated by ██████████, a neuropsychologist specializing in autism and other related disorders. ██████████ was in-network for the Appellant's father's BlueCross/BlueShield plan but not a Medicare or Medicaid provider. This left the Appellant with co-pays, which from April through December of 2023, were paid from the Appellant's Goods & Services funds. Effective January 2024, the father's health coverage transferred from BlueCross/BlueShield to Government Employees Health Associates. ██████████ was not considered in-network for the Government Employees Health Associates plan. It is unclear if visits with ██████████ were covered in full by the Goods & Services funds.

In April 2024, the Appellant's Individual Service Plan was up for renewal. At this time, BHDDH finished a rate setting process and made several clarifications to what can and cannot be covered under

Goods & Services. This left several questions, including if Goods & Services funds could be used to pay for [REDACTED]. The 2024-2025 plan, covering April 1, 2024, through March 31, 2025, regarding the Goods & Services was not finalized until the end of the plan year (April 2025). At the same time the Appellant's 2025-2026 plan, covering April 1, 2025, through March 31, 2026, was being written and reviewed.

[REDACTED] kept seeing the Appellant through March of 2025, despite not getting payments. They charge \$180.00 per session. After [REDACTED] stop treating the Appellant for non-payment, they tried a different provider, but the Appellant did not take to the new provider.

In both plan years, BHDDH takes the position that Goods & Services funds cannot be used to pay [REDACTED] as this falls under Professional Service. Furthermore, BHDDH requires that a provider billing under Professional Services be a Medicaid provider. [REDACTED] has never been a Medicaid provider and currently is not a Medicaid provider.

Gardening Therapy

In the 2023-2024 plan, covering April 1, 2023, through March 31, 2024, the Appellant was eventually approved to use some Goods & Services funds for gardening therapy. Later plan years, request for gardening therapy supplies have been either partially approved or fully denied. BHDDH argues that the first year covered things like shovels and plants. It is expected that these plants be around for several years and that someone does not need three shovels when one would do.

DISCUSSION

[REDACTED]

BHDDH takes the position that Goods & Services funds cannot be used to pay [REDACTED] as this falls under Professional Services. Furthermore, BHDDH requires that a provider billing under Professional Services be a Medicaid provider. This is a correct interpretation of Goods & Services.

Technical Bulletin # 19-02 spells out what can and cannot be covered under Goods & Services. Among the requirements for Goods & Services, is that the good and/or service cannot be available through another funding source. Other funding sources include health insurance plans. In the case of the Appellant, that would mean the good or service is not available through his Medicare plan, any active private insurance, his Medicaid plan, or his Professional Services (habilitative) coverage under BHDDH. The record is clear that there are providers that treat autistic individuals under the Appellant's Medicaid plan and/or under the Professional Services coverage. The record is also clear that [REDACTED] could be covered under either of these categories if they were a Medicaid provider. The state cannot force a provider to become a Medicaid provider. Just as someone who has private health insurance may be limited to who is in-network, a Medicaid participant is limited to the "network" of Medicaid providers. In addition, Goods & Services cannot be used to duplicate any Medicaid or Professional Services. Thus Goods & Services cannot be used to supplant or expand who or what is covered under those benefits.

In addition, the Technical Bulletin specifically calls out that medical procedures, doctor's visits, and co-payments of medical services are excluded from Goods & Services funding. The visits with [REDACTED] [REDACTED] would fall under the medical procedures and/or doctor's visits exclusion. This is especially true in light that if [REDACTED] was a Medicaid provider, they could be paid under Medicaid or Professional Services.

The Appellant argues that [REDACTED] can fall under other prescribed therapies example of allowable coverage. While this argument has some legitimacy, it fails to consider the overarching limitations discussed above. An example of a category of allowable Goods & Services is not sufficient to override the prohibitions of services funded elsewhere, duplicating Medicaid and Professional Services benefits, and the explicit bar on doctor's visits and co-pays.

2024-2025 Plan coverage of [REDACTED] due to the late determination of coverage

In alternative to [REDACTED] being paid in full, the Appellant argues that BHDDH should cover [REDACTED] for the 2024-2025 plan due to the duration it took for the approval of that years Goods & Services took. The Technical Bulletin is clear that participants request funding that needs to be reviewed and approved by BHDDH to use Goods & Services funds for a good or service. Absent such an approval any argument for such payments resides in equity. As established in *Nickerson v. Reitsma*, 83 A.2d 1202 (RI 2004), an administrative hearing does not have any equity powers.

Gardening Therapy

Like the payments to [REDACTED], the gardening therapy is subject to being requested by the Appellant and being reviewed and approved by BHDDH before funds can be used. Here these requests were clearly reviewed as part of the Goods & Services process. BHDDH considered these requests and portions of the requests were denied. Furthermore, it is reasonable that BHDDH limited approval of these requests as duplicating items purchased in previous years and would still normally be considered useable in the current years.

CONCLUSION OF LAW

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

1. Payments to [REDACTED] need to be made through the Appellant's Medicare, Medicaid, or Professional Services benefits. Payments to [REDACTED] are not permissible under Goods & Services.
2. [REDACTED] needs to be a Medicaid provider in order to paid under Medicaid or under Professional Services. The decision of [REDACTED] of not becoming a Medicaid provider does not allow payments to then come out of Goods & Services.

3. BHDDH payment for sessions with [REDACTED] that occurred while the Goods & Services portion was still pending is not permissible under policy. Any request under equity is beyond this tribunal's powers.
4. The limiting of the approval of gardening therapy is permissible and proper.

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 the Goods & Services funding denials.

APPEAL DENIED

/s/ Shawn J. Masse

Shawn J. Masse

Appeals Officer

NOTICE OF APPELLATE RIGHTS

This Final Order constitutes a final order of the Department of Behavioral Healthcare, Developmental Disabilities and Hospitals 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], [REDACTED], [REDACTED], Michael A. Castner, Esq. at 270 Bellevue Ave, Unit #305, Newport, RI 02840; copies were sent, via email, to [REDACTED], Kate Breslin-Harden, Thomas Corrigan, Donna Standish, Karen Lowell, Natlie Munoz, and Michael A. Castner, Esq. at michaelcastner@riprolaw.com on this 6TH day of NOVEMBER, 2025.


