

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

[REDACTED]

V.

DOCKET No.

25-2117

Department of Human Services

**DECISION**

**INTRODUCTION**

The Appellant, [REDACTED], initiated this matter to appeal the Long-Term Services and Supports determination made by the Department of Human Services (DHS). A Microsoft Teams hearing in this matter occurred on June 11, 2025, at 9:00 AM. The Appellant did not elect the option of a video hearing. DHS moved to have the appeal dismissed for timeliness during the hearing. For the reasons discussed in more details below, the Appellant's appeal is dismissed on grounds of it being filed untimely.

**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 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 210-RICR-10-05-2 and the Administrative Procedures Act (RIGL § 42-35-1 et. seq.).

## **ISSUE**

The issues are whether the Appellant's appeal was filed timely and, if so, was the determination of the Appellant's LTSS eligibility done in compliance with federal and state regulations.

## **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 by the proponent 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) (preponderance standard is the "normal" standard in civil cases). 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**

DHS Eligibility Technician III Michael Pangman and the Appellant's authorized representative attended the hearing. The following exhibits were entered as evidence:

- The Benefits Decision Notice dated March 13, 2025.
- The Appellant's Appeal filed on May 1, 2025.

## **RELEVANT LAW/REGULATIONS**

210-RICR-10-05-2.2.1(A)(9) requires Medicaid appeals, including those for LTSS Medicaid, to be filed within thirty days of the agency action. An additional five days are given when the notice of the agency action is being mailed to account for the mailing time.

## **OBJECTIONS AND MOTIONS**

DHS moved to have the matter dismissed for being an untimely filed appeal. Because the issue is decisive of this matter, it is discussed in the discussion section below.

## **FINDINGS OF FACT**

1. The Appellant applied for LTSS Medicaid.
2. The Appellant received at least two notices prior to the one on appeal. These were in September and November/December of 2024. In both cases the Appellant filed responses with DHS and did not hear anything back from DHS.
3. DHS sent out the notice under appeal on March 13, 2025. That notice specified that the Appellant was being approved for LTSS Medicaid and was subject to \$85,812.01 transfer penalty.
4. The Appellant was receiving several notices at this time and the Appellant's POA found the letters confusing. The POA eventually went to the Nursing Home who advised the POA to file an appeal.
5. The Appellant filed their appeal on May 1, 2025. This was 49 days after the notice under appeal was generated.

## **DISCUSSION**

Medicaid regulations requires that an appeal be filed within thirty days of the agency action, with an additional five days given to account for the mailing of the notice of the action. 210-RICR-10-05-2.2.1(A)(9). The notice was clearly sent out to the Appellant on March 13, 2025. This would put the last day to appeal on April 17, 2025. The appeal was clearly filed late with it being filed on May 1, 2025. This results in the appeal being filed fourteen days after the deadline has passed to appeal the determination. Testimony shows that the Appellant was provided notice. The Appellant's POA was aware of the determination but was having difficulty understanding the notices that were being received at the time. The POA eventually went to the facility where the Appellant resides which advised the POA to file an

appeal. This delay in seeking advise and filing an appeal does not justify an exception to the requirement of filing an appeal by the due date.

### **CONCLUSION OF LAW**

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

1. The appeal was filed untimely.
2. The Appellant was on notice of the agency action by receiving the March 13, 2025, notice.
3. There is insufficient grounds to allow the untimely filed appeal to continue.

### **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 that the appeal was filed untimely. As such DHS' motion is granted and the matter is dismissed as untimely.

### **APPEAL DISMISSED**

/s/ Shawn J. Masse

Shawn J. Masse

Appeals Officer

### **NOTICE OF APPELLATE RIGHTS**

This final order constitutes a final order of the Department of Human Services pursuant to R.I.G.L. § 42-35-12. Pursuant to R.I.G.L. § 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

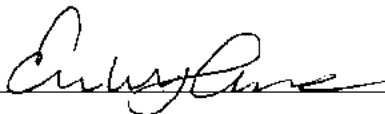
[REDACTED]

[REDACTED], and to [REDACTED]; copies were sent,

via email, to [REDACTED], Michael Pangman, Vanessa Ward, Jacqueline

Neirinckx, Rose Leandre, Rebecca Cahoon, Kirsten Cornford, and the DHS Policy Unit on this

12th day of June, 2025.

  
\_\_\_\_\_