

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

V.

DOCKET No. 25-2187

HealthSource Rhode Island

**DECISION**

**I. INTRODUCTION**

An in-person hearing on the above-entitled matter came before an Appeals Officer on June 9, 2025. Two Department of Human Services (DHS) staff members did not attend the hearing in person but called into the hearing using Microsoft Teams, and the hearing proceeded with the Appellant's consent. The Appellant, [REDACTED] (hereinafter the "Appellant"), initiated this matter to appeal his auto-enrollment into the Neighborhood Health Plan of RI (Neighborhood VALUE (CSR 94)) as of October 1, 2024, as stated in the HealthSource RI (HSRI) Enrollment Notice dated September 17, 2024. HSRI testified that the Appellant's Appeal should be dismissed because it was not filed within the 35-day deadline to file an appeal of a Commercial Health Insurance notice. The Appellant testified that he did not file his Appeal within the 35-day deadline because he lives in Florida for a portion of the year, and he does not forward mail to his address in Florida. The Appellant also testified that when he did review his mail from HSRI in January 2025, he threw it away because he did not think that he was enrolled in a health insurance plan with HSRI. 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, EOHHS regulation 210-RICR-10-05-2, and HSRI regulation 220-RICR-90-00-1.14

to be the entity responsible for appeals and hearings related to HSRI and the Health Exchange. 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 the Appellant provide sufficient good cause to accept the untimely filing of his HSRI Commercial Health Insurance Appeal?

### **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**

DHS Appeals Unit staff, Glenda Ramos and Heidy Mena Torres, attended the hearing by calling into the hearing on Microsoft Teams. General Counsel for HSRI, Ben Gagliardi Esq. attended the hearing as well as HSRI Appeals Specialist, Mary Laurila, who provided testimony and offered the following exhibits into evidence:

Exhibit #1 – Benefit Decision Notice (BDN), Date: September 12, 2024.

Exhibit #2 – Neighborhood Health Plan of RI Enrollment Notice, Date: September 17, 2024.

Exhibit #3 – HSRI Interaction Log with the Appellant.

Exhibit #4 – BDN, Date: January 10, 2025.

Exhibit #5 – Neighborhood Health Plan of RI Disenrollment Notice, Date: January 10, 2025.

Exhibit #6 – Important Information Regarding Health Coverage Options for Adults 65+, Date: September 17, 2024.

Exhibit #7 – Neighborhood Health Plan of RI Enrollment Notice, Date: December 4, 2024.

The Appellant and the Appellant's witness, [REDACTED], attended the hearing and provided testimony. The Appellant offered the following exhibits as evidence:

Exhibit #8 – Electronic Appeal Form, Date: April 16, 2025.

Exhibit #9 – Medicare Health Insurance Card and Blue Cross Blue Shield Medicare Advantage Card.

Exhibit #10 – Proof of BlueCHIP Medicare Value HMO-POS Plan, Date: May 29, 2025.

## **VI. RELEVANT LAW/REGULATIONS**

The Patient Protection and Affordable Care Act provides the legal authority for states to establish health insurance exchanges, which are designed to provide affordable health insurance to eligible individuals and small business through Qualified Health Plans. The rules and regulations pertaining to HSRI can be found in Title 220 – Department of Administration, Chapter 90 – Health Benefits Exchange Part 1 of the Rhode Island Code of Regulations.

Per EOHHS regulations, each agency must describe the timeliness of an appeal in the benefit decision notice. See 210-RICR-10-05-2.2.1(A)(1)(a). For appeals that pertain to health coverage, an appeal must be filed within 30 days of a contested agency action. The 30 days begins five days after the mailing date of the notice. See 220-RICR-90-00-1.14(C). HSRI Policy Manual Chapter 9 also establishes

these rules and procedures for appeals pertaining to HSRI decisions. Similarly, 45 CFR § 155.520(b)(2) provides additional guidance for appeal timeframes.

The Appeals Office permits appeals that are untimely to go forward, if good cause can be established for the delay in filing of an appeal. Good cause claims include, but are not limited to, sudden and unexpected events, such as loss or breakdown of transportation; events beyond the individual's control, which prevent the Appellant from being timely; disabilities, such as linguistic and behavioral health limitations; illness or injury of the Appellant or Appellant's household, or a death in the family. See 210-RICR-10-05-2.3.1(E)(3).

## **VII. FINDINGS OF FACT**

1. The Appellant was sent a BDN on September 12, 2024. The BDN states on page two that the Appellant's Private Health Insurance is approved with auto-enrollment. The notice provides pertinent information about the Appellant's monthly premium, monthly tax credits, and the Appellant's rights and responsibilities. Page ten of the BDN states that an appeal of a Medicaid notice must be filed within 30 days after the notice date plus five days for mailing time.
2. HSRI sent the Appellant a Neighborhood Health Plan of RI Enrollment Notice on September 17, 2024. The notice states that the Appellant is enrolled in a Neighborhood Health Plan as of October 1, 2024, and it explains the monthly cost for the health insurance coverage. Page 11 of the notice states that an appeal of a Commercial Health Insurance notice must be filed within 30 days after the notice date plus five days for mailing time.
3. The Appellant submitted an appeal form to the EOHHS Hearing Office on April 16, 2025, challenging his auto-enrollment in the Neighborhood Health Plan of RI.
4. The Appellant does not dispute that both the BDN, and the enrollment notice were sent to the correct mailing address.
5. The Appellant testified that when he reviewed his mail from HSRI in January 2025, he threw it away because he did not think that he was enrolled in a HSRI Health Insurance plan.

## **VIII. DISCUSSION**

As stated above appeals that pertain to health coverage must be filed within 30 days of a contested agency action and the 30 days begins five days after the mailing date of the notice. The Appeals Office permits appeals that are untimely to go forward, if good cause can be established for the delay in filing of an appeal. Good cause claims include, but are not limited to, sudden and unexpected events, such as loss or breakdown of transportation; events beyond the individual's control, which prevent the Appellant from being timely; disabilities, such as linguistic and behavioral health limitations; illness or injury of the Appellant or Appellant's household, or a death in the family.

The initial auto-enrollment BDN was sent to the Appellant on September 12, 2024, and the Neighborhood Health Plan of RI Enrollment Notice was sent on September 17, 2024. By filing his Appeal on April 16, 2025, the Appellant missed the deadline to file an appeal of his auto-enrollment into the Neighborhood Health Plan by over six months. Because the Appellant testified that his address was correctly listed on both the BDN and the Neighborhood Health Plan of RI Enrollment Notice, there is a preponderance of evidence to show that both DHS and HSRI properly notified the Appellant of his auto-enrollment into a Commercial Health Insurance plan. The Appellant testified that he did not read the notices because he did not think he was enrolled in a HSRI Health Insurance plan, however this does not rise to the standard for granting good cause as stated above. Nor does the Appellant's testimony that he does not regularly check his mail because he spends a portion of the year in Florida rise to the standard for granting good cause, as it is the Appellant's responsibility to either update his mailing address with DHS and HSRI or forward his mail to his Florida address. Because the Appellant did not file this Appeal prior to the appeal deadline for DHS and HSRI actions, nor did he provide a sufficient good cause claim for his failure to do so, the EOHHS Haring Office does not have jurisdiction in this matter.

## **IX. CONCLUSION OF LAW**

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

1. Per Federal and State Regulations and HSRI Policy, the Appeal was not filed within the regulatory guidelines which require an appeal to be filed within 30 days of the contested agency action plus five days after the mailing date of the notice.
2. The Appellant failed to establish good cause for this untimely Appeal.
3. For the reasons stated above, the EOHHS Hearing Office lacks the jurisdiction to explore any further matters in this case.

**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 is not timely. As such, this Appeal of HSRI's actions is dismissed due to a lack of jurisdiction.

**APPEAL DENIED**

*/s/ Jack Peloquin*

Jack Peloquin

Appeals Officer

**NOTICE OF APPELLATE RIGHTS**

This hearing decision constitutes a final order pursuant to R.I.G.L. § 42-35-12. An appellant may seek judicial review to the extent it is available by law. 45 C.F.R. § 155.520 grants appellants who disagree with the decision of a State Exchange appeals entity, the ability to appeal to the U.S. Department

of Health and Human Services (HHS) appeals entity within thirty (30) days of the mailing date of this decision. The act of filing an appeal with HHS does not prevent or delay the enforcement of this final order. You can file an appeal with HHS at <https://www.healthcare.gov/downloads/marketplace-appeal-request-form-a.pdf> or by calling 1.800.318.2596.

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 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], Ben Gagliardi, Esq., Vianchell Tiburcio, Mary Laurila, Lindsay Lang, Kirsten Cornford, the DHS Appeals Unit at [DHS.Appeals@dhs.ri.gov](mailto:DHS.Appeals@dhs.ri.gov), and the DHS Policy Office at [dhs.policyquestions@dhs.ri.gov](mailto:dhs.policyquestions@dhs.ri.gov) on this 11<sup>th</sup> day of JUNE, 2025.

Laura M. Kendrick