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

[redacted]

DOCKET No. 26-1978 & 26-1979

v.

DEPARTMENT OF HUMAN SERVICES

DECISION

I. INTRODUCTION

A hearing concluded on the above-entitled matter on August 18, 2026. The Appellant, [redacted] did not select a Microsoft Teams video hearing. The Appellant initiated this matter by filing appeals on March 23, 2026 (Docket #26-1978), and March 24, 2026 (Docket #26-1979), to dispute his Medicaid and Medicare Premium Payment (MPP) closure due to excess resources. The Appellant seeks reinstatement of both Medicaid and MPP from the date of closure. For the reasons discussed in more detail below, the Appellant's appeal is granted.

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 210-RICR-10-05-2 as the entity responsible for appeals and hearings related to human services. The administrative hearing was held in accordance with the Administrative Procedures Act (R.I.G.L. § 42-35.1 et. seq.) and 210-RICR-10-05-2.

III. ISSUE

The issue is whether the Appellant's Medicaid and MPP should have been closed due to excess resources.

IV. STANDARD OF PROOF

It is well settled that in adjudications modeled on the Federal Administrative Procedures Act, unless otherwise specified, a preponderance of the evidence is generally required to prevail. 2 Richard J. Pierce, Administrative Law Treaties §10.7 (2002) & *Lyons v. Rhode Island Pub. Employees Council 94*, 559 A.2d 130, 134 (R.I. 1989) (a preponderance standard is the "normal" standard in civil cases). 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. *Narragansett Electric Co. vs. Carbone*, 898 A.2d 87 (R.I. 2006).

V. PARTIES AND EXHIBITS

Eligibility Technician Brandon Klibanoff represented DHS. DHS offered the following documents into evidence at hearing.

- DHS Exhibit #1 – a 35-page document that consisted of the Hearing Appointment Notice, a copy of the appeal, a Benefit Decision Notice (BDN) dated March 11, 2026, eligibility screenshots for Medicaid and MPP, and the Asset Verification Services (AVS) report results.

The Appellant attended the hearing and testified. The Appellant offered the following documents into evidence at hearing.

- Appellant Exhibit #1 – tax assessor records for [redacted] (Address in Question).
- Appellant Exhibit #2 – quitclaim deed and property records from the Town of [redacted] regarding the Address in Question.

VI. RELEVANT LAW/REGULATIONS

Only the primary residence is excluded, as a resource, for Medicaid eligibility. When

someone owns more than one residence, the non-primary residence counts as a countable resource. 210-RICR-40-00-3.6.5 (A)(1)(a)(2).

According to 210-RICR-50-00-6.11.2 (B)(2)(b), for irrevocable trusts established after December 1, 2000, any portion of a trust principal that could be paid to or for the benefit of a Medicaid applicant is treated as a countable resource.

The resource limit for Medicaid and MPP is $4,000 for an individual. 210-RICR-40-00-3.2.8 (A)(5) & 210-RICR-40-05-1.7.5 (A).

VII. FINDINGS OF FACT

1. According to DHS:
    a. The AVS results show that the Appellant was associated with a property located at the Address in Question on June 17, 2025, with an assessed value of $44,300.00.
    b. Because the Appellant does not reside at that address, it is counted as a resource for Medicaid and MPP eligibility.
    c. The resource limit for Medicaid and MPP eligibility is $4,000.00. Since the value of the property located at the Address in Question exceeds this amount, the Appellant is no longer eligible for Medicaid and MPP.
2. According to the Appellant:
    a. The Appellant does not own any real estate property and has never owned any real estate, especially at the Address in Question.
    b. The Rhode Island tax assessor's office shows the owner of the Address in Question as the [redacted], with a trustee named [redacted].
    c. The Town of [redacted] documents also show the same information for the Address in Question. The [redacted] owns it, with [redacted] as

trustee. The owner of the Address in Question currently resides at [redacted], which is not the Appellant's current address.

d. The Appellant has never owned property in Rhode Island. The Appellant currently rents an apartment and receives less than 100% of the federal poverty limit from Social Security.

e. According to the Appellant, DHS asked him to produce a copy of the trust paperwork. The attorney who wrote the trust is R.J. Connelly, Jr. The attorney refused to provide the Appellant with any documentation or a letter stating the Appellant was not associated with the trust because the Appellant is not listed in the trust.

f. According to the Appellant, the AVS results that DHS relied upon when it determined the Appellant was over the resource limit for Medicaid and MPP were clearly false and based on the documents provided as evidence; the Appellant is clearly not the owner of the property located at the Address in Question.

g. The only relationship the Appellant has ever had with the Address in Question is that the Appellant lived at that location briefly, in the past with an ex-girlfriend, [redacted] who he has not been in a relationship with since 2004, over 22 years ago. [redacted] is the current owner of the trust, and the [redacted] currently owns the property, as stated in all the documents provided.

VIII. DISCUSSION

The Appellant has proven by a preponderance of the evidence that he is not the owner of the property located at [redacted]. According to the Appellant's evidence, the owner is listed as [redacted] with a trustee named [redacted]. Therefore, this property is not a countable resource for the Appellant's Medicaid

and MPP eligibility. The Appellant's explanation remained consistent throughout the appeals process. His explanation that he does not own the property also aligns with documentation from the tax assessor's office and the Town of [redacted] Based on all of this, the Appellant is credible. Furthermore, errors in the AVS report, compared with the tax assessor and Town of [redacted] documents, show that the AVS report is a less credible source of information. The date of sale and the assessed value of the property on AVS are incorrect compared to the tax assessor's information, documents from the Town of [redacted] and the quitclaim deed.

IX. CONCLUSION OF LAW

After a careful review of the evidence and testimony at the administrative hearing, the Appellant has presented sufficient evidence that:

1. The Appellant is not the owner of the residence located at the Address in Question.
2. According to 210-RICR-50-00-6.11.2 (B)(2)(b), there is no evidence showing that any portion of the [redacted] is payable to the Appellant in order to count as a countable resource for Medicaid or MPP.

X. DECISION

Based on the foregoing findings of fact, conclusion of law, evidence, and testimony, it is found that a final order is hereby entered that there is sufficient evidence to support the Appellant's Medicaid and MPP was closed in error based on a resource that should not have been counted towards the Appellant's Medicaid and MPP eligibility.

APPEAL GRANTED

/s/ Robert Pelosi
EOHHS Appeals Officer

XI. AGENCY ACTION

- Within 30 days of the certification date of this decision, DHS must reinstate Medicaid and MPP benefits from the date of closure of April 1, 2026.
- After reinstatement, DHS must remove the resource (Trust) that is negatively affecting the Appellant's Medicaid and MPP eligibility and then redetermine eligibility and issue a new BDN to the Appellant.

NOTICE OF APPELLATE RIGHTS

This decision is a final order under R.I.G.L. § 42-35-12. Under R.I.G.L. § 42-35-15, this Order may be appealed to court within 30 days of the mailing of this decision. Such appeal, if taken, must be completed by filing a complaint in court. The filing of the complaint does not itself stay enforcement of this order. The agency may grant a stay, or the reviewing court may order one, upon the appropriate terms.

Appeals are generally filed in the Providence County Superior Court. However, appeals affecting or concerning children under the age of 18 and/or appeals of a DCYF action may need to be filed in Providence Family Court. If you have any questions about which court a complaint for appeal should be made, you should seek the advice of an attorney, Rhode Island Legal Services, or the clerk of the court where you wish to file your appeal. The courts' contact information can be found on the judiciary's website (https://www.courts.ri.gov). Copies of the appeal must be served upon all parties in your case within 10 days of the filing of your appeal.

If you exercise any of these appellate rights, please inform the EOHHS appeals office of this so we can prepare a copy of the record for the court. You can contact the Appeals Office at

OHHS.AppealsOffice@ohhs.ri.gov, 401.462.2132 (Phone), 401.462.0458 (Fax), or at 3 West Road, Virks Building, Cranston, RI 02908.

CERTIFICATION

I hereby certify that I mailed a true copy of the foregoing to [redacted], via regular mail, postage prepaid. Copies were sent via email to [redacted]; to DHS Representatives Brandon Klibanoff, Laura Larrivee, and Kirsten Cornford; to the DHS Appeals Unit and the DHS Policy Office on this 28TH day of SEPTEMBER, 2026.

