

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

[REDACTED]

V. Docket #: 26-2624

Executive Office of Health and
Human Services

DECISION

INTRODUCTION

The Appellant, [REDACTED], initiated this matter to appeal the denial of in vitro fertilization (IVF) treatment made by their Neighborhood HealthPlan of Rhode Island (NHPRI) Medicare/Medicaid plan. A Microsoft Teams hearing in this matter occurred on June 2, 2026, at 10:00 am. The Appellant did not elect the option of a video hearing. For the reasons discussed in more detail 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 and 210-RICR-10-05-2 to be the entity responsible for state-level appeals and hearings regarding NHPRI Medicaid plans denial of coverage. 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.).

Under 210-RICR-10-05-2.4.2, a member of a NHPRI Medicaid plan is required to exhaust all appeal rights under NHPRI before seeking an appeal with EOHHS. This matter has already been through the appeal process with NHPRI and is currently ripe for this tribunal.

ISSUE

The issue is whether NHPRI's denial of IVF was 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 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

In attendance at the hearing were:

- The Appellant
- EOHHS Administrator of Medical Services John Neubauer
- NHPRI's Assistant General Counsel Amy Coleman, Esq.
- NHPRI's Medical Director Dr. Christopher Ottiano
- NHPRI's Clinical Manager for Claims and Appeals Catherine Daignault

The following exhibits were presented as evidence:

- NHPRI's Integrity Duals Benefit Coverage Summary
- NHPRI's Coverage Decision Letter
- NHPRI's letter of April 16, 2026
- NHPRI's Acknowledgement Letter

- NHPRI's Clinical Medical Policy – Infertility Services - #061, last reviewed April 8, 2026
- NHPRI's Clinical Medical Policy – Infertility Services - #061, last reviewed December 10, 2025
- NHPRI's letter of April 23, 2026
- NHPRI's letter of May 22, 2026, responding to the appeal
- NHPRI's Appeal Review Notes
- NHPRI's email of May 18, 2026, responding to the Appellants request for an informal resolution
- NHPRI's email of May 28, 2026, prefilling an additional piece of evidence
- NHPRI's Integrity for Duals Member Handbook, Pages 68-70
- Appellant's email of April 24, 2026, stating their reason for the appeal
- Appellant's email of April 28, 2026, supporting their appeal
- Appellant's email of May 7, 2026, regarding appealing the NHPRI decision
- Appellant's appeal
- Appellant's appeal of NHPRI's decision to [REDACTED] regarding their Medicare benefits
- [REDACTED] decision regarding the Appellant's Medicare appeal
- NHPRI's Authorization Request # [REDACTED]
- NHPRI's Complaint Note created on April 16, 2026
- NHPRI's Expedited Evaluation Note created on April 16, 2026
- Letter of Medical Necessity from Doctor [REDACTED]
- Rhode Island Senate bill #S-2666

RELEVANT LAW/REGULATIONS

Medicaid generally covers medically necessary services. 210-RICR-40-10-1.2 (A)(15). However, this does not mean that every medically necessary service is covered. Infertility treatments, such as IVF, are excluded from Medicaid coverage. For example, 210-RICR-30-05-2.11 (A)(5) excludes infertility services for Medicaid recipients under RiteCare and 210-RICR-30-05-2.27 (A) excludes infertility services for Medicaid recipients under Rhody Health Partners. For Medicare/Medicaid recipients under the NHPRI Integrity for Duals, IVF is excluded from the coverage. Specifically, the Integrity for Duals Member Handbook excludes artificial ways of becoming pregnant. NHPRI's Clinical Medical Policy #061 (April 8, 2026) which governs covered infertility services only applies to commercial plans. Finally, NHPRI's Integrity Duals Benefit Coverage Summary lists IVF, under its IDC-10 code of S4015, as a non-covered service that falls onto the Member to pay.

R.I.G.L. § 27-20-20 mandates that health insurance plans cover IVF and other infertility treatment. That statute, however, clearly excludes plans providing or supplementing Medicare and other government programs, i.e., Medicaid.

There was a House Bill in 2025, HB-5771, that would require IVF to be a covered service under Medicaid. This bill never made it out of committee and was never enacted as law. A bill is currently before the Rhode Island Senate, S-2666, that would expand Medicaid coverage to cover most infertility services and requires EOHHS to present to the Rhode Island Senate regarding the feasibility of covering IVF under Medicaid. If passed, S-2666 will go into effect on January 1, 2027.

FINDINGS OF FACT

The Appellant had both of their fallopian tubes removed (salpingectomy) for medical reasons. The left tube was removed due to a blockage (hydrosalpinx). The right one was removed due to an ectopic pregnancy. This results in the Appellant being unable to get pregnant by natural means as the

Appellant's eggs physically cannot reach the uterus to meet up with the sperm and implant into the uterus. As such the only way the Appellant could become pregnant is through IVF.

The Appellant and their doctors submitted a request for coverage of IVF to NHPRI. This was denied for not being a covered service. This was appealed through NHPRI which was also denied. Second level appeals were filed. Since the Appellant's NHPRI plan provides services under both Medicare and Medicaid to the Appellant, two second level appeals were initiated. An appeal with [REDACTED] was filed for the Medicare benefits. [REDACTED] denied the appeal. This appeal was initiated related to the Medicaid portion of the plan.

DISCUSSION

The Appellant seeks to have NHPRI cover IVF treatments. The Appellant is currently on a NHPRI plan that manages the Appellant's Medicare and Medicaid benefits. What is and is not covered by the Appellant's NHPRI plan is listed in the Member Handbook and the Integrity Duals Benefit Coverage Summary. Both documents clearly show that IVF is not a covered service. Specifically, the Member Handbook excludes artificial ways to being pregnant and the Benefit Coverage Summary calls out IVF, under its IDC-10 code of S4015, as being an excluded service. Furthermore, Fee-for-Service Medicaid excludes infertility treatments from Medicaid coverage. See 210-RICR-30-05-2.11 (A)(5) & 210-RICR-30-05-2.27 (A). This further supports that IVF is not a covered service under the Appellant's NHPRI as a Medicaid benefit.

The Appellant argues that HB-5771 requires Medicaid to provide coverage for IVF. However, HB 5771 has not been enacted into law and therefore does not require IVF to be covered. A second bill, S-2666, is still in the works related to requiring infertility coverage. However, that bill also has not been enacted into law yet and would only require a feasibility report related to IVF coverage. The only statute raised related to insurance coverage of IVF is R.I.G.L. § 27-20-20. However, that statute clearly excludes health plans providing coverage for Medicare and other governmental programs, i.e., Medicaid. The

current legal landscape does not require Medicaid to cover IVF and the scope of the Appellant's NHPRI plan excludes IVF as a covered service.

CONCLUSION OF LAW

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

1. The Appellant's NHPRI plan excludes coverage of IVF.
2. Medicaid or private plans managing Medicaid benefits are not required under state law to provide coverage for IVF.

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 NHPRI's denial of an IVF authorization.

APPEAL DENIED

/s/ Shawn J. Masse

Shawn J. Masse

Appeals Officer

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 thirty (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, or the reviewing court may order, a stay upon the appropriate terms.

Appeals are generally filed in the Providence County Superior Court. However, appeals affecting or concerning children under the age of eighteen (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 ten (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 EOHHS.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, via regular mail, postage prepaid, a true copy of the foregoing to [REDACTED] and Robert Fine, Esq. of Chace Ruttenberg & Freedman, LLC at 1 Park Rd., Suite 300, Providence, RI 02903; copies were sent, via email, to [REDACTED], Doug Emanuel, Esq. at [REDACTED], Amy Coleman, Esq. at [REDACTED], Mary Eldridge at [REDACTED], Robert Fine, Esq. at [REDACTED], Deborah Morales, Amanda Graziosi, and John Neubauer on this 8TH day of JUNE, 2026.

