

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

v.

DOCKET No. 26-2868

EXECUTIVE OFFICE OF HEALTH
AND HUMAN SERVICES

DECISION

I. INTRODUCTION

A Microsoft Teams hearing on the above-entitled matter was held on June 10, 2026, and concluded on July 10, 2026. The Appellant, [REDACTED], did not elect the option of a video hearing. This matter was initiated to appeal the decision by Neighborhood Health Plan of Rhode Island (NHPR) denying the Appellant's prescription coverage for Tiroshint as a benefit exclusion, on the ground that it is not part of the Medicaid Drug Rebate Program (MDRP). Testimony was heard regarding the timeliness of the appeal and the substantive matter under appeal. For the reasons discussed in more detail below, the Appellant's appeal is dismissed for timeliness.

II. JURISDICTION

The Executive Office of Health and Human Services (EOHHS) is authorized and designated by Rhode Island General Law (R.I.G.L.), specifically R.I.G.L. § 42-7.2-6.1 and EOHHS regulation 210-RICR-10-05-2, to be 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 EOHHS regulation 210-RICR-10-05-2.

III. ISSUE

The issues are 1) whether the appeal was filed timely, and if timely, 2) whether NHPRI should exclude prescription coverage for Tirosint because the drug is not part of the Medicaid Drug Rebate Program, in accordance with State/Federal regulations as set forth below.

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 EXHIBIT

Present for EOHHS:

- John Neubauer, Administrator for Medical Services.

Present for NHPRI:

- Amy Coleman, Esq.
- Lisa Lambert, R.N., with NHPRI Grievance and Appeals
- Catherine Daignault, Clinical Manager, NHPRI Grievance and Appeals
- Hailey Osmanski, Intern at NHPRI observing.

NHPRI offered the following documents as evidence at hearing:

- NHPRI Exhibit #A – Prior Authorization Request
- NHPRI Exhibit #B – Benefit Exclusion Letter
- NHPRI Exhibit #C – Notice of Adverse Determination – Full Denial
- NHPRI Exhibit #D – NHPRI Internal Appeal
- NHPRI Exhibit #E – Appeal review completed by NHPRI's Associate Medical Director.
- NHPRI Exhibit #F – Notice of Upheld Appeal
- NHPRI Exhibit #G – EOHHS Appeal Form, completed by Appellant.

The Appellant appeared and testified. The Appellant offered the following documents as evidence at hearing:

- Appellant Exhibit #1 – Appellant's bloodwork on June 26, 2025, December 30, 2025, February 5, 2026, and March 24, 2026.

VI. RELEVANT LAW/REGULATIONS

According to 210-RICR-10-05-2.4.2(B), Medicaid beneficiaries retain the right to request an Administrative Fair Hearing through EOHHS, in accordance with the provisions set forth in 210-RICR-10-05-2.3.1 if the matter remains unresolved after exhausting all remedies available through the managed care plan's grievance and appeals process. The final federal managed Medicaid rules allow beneficiaries 120 calendar days to request a fair hearing.

VII. FINDINGS OF FACT

1. The NHPRI Initial Notice of Adverse Determination – Full DENIAL was issued on October 27, 2025. The reason for the denial was listed as a benefit exclusion because NHPRI does not cover drugs or products that are not part of the MDRP.
2. The Appellant filed an initial Level 1 appeal directly with NHPRI, as required by the plan, on November 12, 2025.

3. The Associate Medical Director of NHPRI completed a review of the appeal on November 25, 2025, and upheld the decision to deny the drug Tirosint because NHPRI does not cover drugs or products that are not part of the MDRP.
4. NHPRI issued the Notice of Upheld Appeal on December, 1, 2025.
5. On December 8, 2025, the Appellant was informed by an NHPRI customer service representative that he could file a second-level appeal with NHPRI. Still, on January 29, 2026, the Appellant was informed by an NHPRI customer service representative that he was not entitled to file a second-level appeal with NHPRI.
6. On January 29, 2026, the Appellant was informed by a NHPRI customer service representative that he had 62 days left to file an appeal with EOHHS, because the appeal timeframe started when the December 1, 2025, Notice of Upheld Appeal was issued to the Appellant.
7. The Appellant filed an appeal with the EOHHS Appeals Office on April 22, 2026, 142 days after the Notice of Upheld Appeal was issued by NHPRI to the Appellant.
8. April 22, 2026, was 83 days after the customer service representative from NHPRI informed the Appellant on January 29, 2026, that he had 62 days left to file an appeal with EOHHS.
9. The Appellant failed to establish good cause for filing an untimely appeal.

VIII. DISCUSSION

At hearing, the Appellant confirmed exactly what NHPRI stated regarding the appeals process, how the Appellant filed his appeal with NHPRI, and the circumstances behind the filing of the internal appeal. When the Appellant was informed that he was not entitled to file a second-level appeal with NHPRI, he was advised that he had 62 days left to file an appeal with EOHHS to

request a state fair hearing. At that point, the Appellant should have filed his appeal with EOHHS, but he did not. The Appellant waited another 82 days to file an appeal with EOHHS, which was 142 days after the December 1, 2025 Notice of Upheld Appeal was issued to the Appellant.

According to 210-RICR-10-05-2.4.2(B), a state fair hearing must be requested within 120 calendar days of NHPRI's final appeal decision. The Appellant argued at the hearing that he filed his appeal with EOHHS late because he could not file an appeal with EOHHS until all avenues with NHPRI had been exhausted. When the Appellant found out that all avenues were exhausted at NHPRI, the Appellant had more than enough time, over 2 months, to file for a state fair hearing with EOHHS, but he waited.

IX. CONCLUSION OF LAW

After a careful review of the testimony and evidence present at the administrative hearing, it is clear that NHPRI:

1. NHPRI issued the Notice of Upheld Appeal to the Appellant on December 1, 2025.
2. 120 calendar days from December 1, 2025, would have been March 31, 2026.
3. An Appeal was filed with EOHHS on April 22, 2026, 142 days after the Notice of Upheld Appeal was issued to the Appellant.
4. According to 210-RICR-10-05-2.4.2(B), a state fair hearing must be requested within 120 calendar days of the final appeal decision from NHPRI.

X. DECISION

Based on the foregoing findings of facts, the conclusion of law, evidence, and testimony, a final order is hereby entered that NHPRI has presented sufficient evidence that the appeal was filed outside of the required 120-day timeframe. As such, the appeal is dismissed for timeliness.

APPEAL DISMISSED FOR TIMELINESS

/s/ Robert Pelosi
EOHHS Appeals Officer

NOTICE OF APPELLANT 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]

[REDACTED], via regular mail, postage prepaid.

Copies were sent via email to [REDACTED], NHPRI

Representatives Amy Coleman, Esq., Robert Fine, Esq., Mary Eldridge, Doug Emanuel, Esq.,

and EOHHS Representatives John Neubauer, Jane Morgan, Esq., Amanda Graziosi, and Deborah

Morales on this 23rd day of July, 2026.

Sofie Luna