



Appeals Office | Louis Pasteur Building | 57 Howard Avenue | Second Floor | Cranston, RI 02920  
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Docket # 15-1630

Date: August 24, 2015



### **ADMINISTRATIVE HEARING DECISION**

The EOHHS Appeals Office received your request for an appeal on July 16, 2015, in which you appealed your Long Term Care decision of June 9, 2015.

According to the EOHHS Regulations 0110.20, hearings must be requested in a timely fashion. Please see the attached APPENDIX for pertinent excerpts from the Rhode Island Department of Human Services Policy Manual.

You appealed 37 days after the date of the action which exceeded the thirty day deadline. The EOHHS Appeals Office requested that you explain the reason for you or your Client's untimeliness.

Your Guardian explained that she was caring for her father the week of July 6<sup>th</sup>, and had secured office assistance to insure that all deadlines were being met. She further wrote that she was "very aware" of the time period for filing the appeal. She had been assured that the letter was mailed within the time frames, and was certain that the appeal was mailed via U.S. regular mail well before the deadline. Your Guardian signed the statement of complaint on Friday, July 3, 2015 but did not mail it at that time. She cited that she gave the responsibility to the interim office help the following week of July 6<sup>th</sup>. Unfortunately, the document did not then reach the Newport DHS office until July 14<sup>th</sup>.

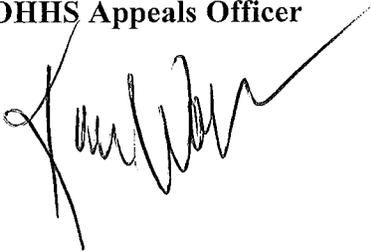
Although you have relied on the assistance of a third party, both an appellant and a representative would be held to the same time limits. Rhode Island Superior Court order (Cara Spry v. Rhode Island DHS) states that, "It was (the appellant's) responsibility to ensure that (DHS) received and filed her request for an appeal within the thirty day time limit and to send another request for filing within that limit, if for some reason the original request was not received." Additionally, the Guardian expressed that she was certain the mail was placed in a regular mail box before the deadline of July 9<sup>th</sup>. The RI Supreme Court has stated that any "risk of non-delivery must be borne by the party who seeks the approval (Mauricio v. Zoning Board of Review)". Again, the appellant bears the responsibility to insure the mail is sent and received within the time frames.

In summary, although the request for hearing appears to have been read and signed within a timely manner, and you appear to have been properly notified of your appeal rights particularly with regards to the time frames, you were unable to submit your appeal within those required time limits. The request for appeal form was received after the thirty days had expired.

Upon review, the Appeals Officer does not find Good Cause. Therefore, we are denying your appeal, and your appeal of the Agency's action is dismissed due to a lack of jurisdiction. There will be no finding on the merits of the matter. This decision does not preclude you from filing a new application for Medical Assistance. You retain the right to appeal any future decisions by a separate request and according to the conditions established in the Agency policy section 0110.20.

Please be advised that this is a final agency action. Please see the attached NOTICE OF APPELLATE RIGHTS at the end of this decision.

**OHHS Appeals Officer**

A handwritten signature in black ink, appearing to read "Paul [unclear]", written over a horizontal line.

## APPENDIX

The Rhode Island Department of Human Services Manual provides in pertinent part:

### **THE EOHHS POLICY MANUAL: GENERAL PROVISIONS SECTION: 0110.20 DEFINITION OF AN APPEAL**

REV: 08/2013

An "appeal" means a request by a claimant (or his/her authorized representative) for an opportunity to present his/her case to the appropriate state agency authority for resolution of the pertinent matter.

The appeal must be filed within:

- o Ten (10) days from the mail date if it pertains to General Public Assistance;
- o Ninety (90) days from the mail date related to SNAP benefits;
- o Forty-five (45) days from the mail date related to Office of Rehabilitation Services matters;
- o Thirty (30) days from the mail date related to child support services;
- o Thirty (30) days from the mail date related to the State Medical Assistance (Medicaid) Program;
- o DCYF: Thirty (30) days from the mail date for any DCYF-related matter;
- o BHDDH: Thirty (30) days from the mail date for any BHDDH-related matter;
- o Thirty (30) days from the mail date for any other DHS program;
- o Thirty (30) days from the mail date for any RIHBE-administered program.

Appeal requests for any of the programs listed above may be submitted:

- o In person to any DHS/DCYF/BHDDH field office/appeals office, as appropriate; and
- o By U.S. Mail to any DHS/DCYF/BHDDH field office/appeals office, as appropriate.

Appeal requests related to the MAGI Medicaid Program or related to any program administered by the RIHBE may, in addition to the submission methods listed above, be submitted:

- o by telephone to the RIHBE contact center;
- o by fax to the RIHBE contact center/appeals office;
- o by U.S. Mail to the address indicated on the appeals request form or
- o online by accessing the user's account through the website made available by the RIHBE allowing for the electronic submission of appeals.

## **DEFINITIONS**

BHDDH: Department of Behavioral Healthcare, Developmental Disabilities and Hospitals

DCYF: Department of Children, Youth, and Families

DHS: Department of Human Services

GPA: General Public Assistance

MAGI: Modified Adjusted Gross Income

ORS: Office of Rehabilitation Services

RIHBE: Rhode Island Health Benefits Exchange

SNAP: Supplemental Nutrition Assistance Program

## **NOTICE OF APPELLATE RIGHTS**

This Final Order constitutes a final order of the Department of Human Services pursuant to RI General Laws §42-35-12. Pursuant to RI General Laws §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.