

STATE OF RHODE ISLAND

PROVIDENCE, SC.

SUPERIOR COURT

(FILED: October 6, 2026)

GREGORIA MORENO VEGA,
APPELLANT,

V.

EXECUTIVE OFFICE OF HEALTH
AND HUMAN SERVICES,
APPELLEE.

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C.A. No. PC-2025-03316

DECISION

CARNES, J. Before this Court is an administrative appeal from a decision of the Rhode Island Executive Office of Health and Human Services (EOHHS) denying the application for Long Term Services and Supports (LTSS) Medicaid benefits for Gregoria Moreno Vega. Mrs. Vega appeals the EOHHS's denial as arbitrary and capricious. Jurisdiction is pursuant to G.L. 1956 § 42-35-15.

I

Facts and Travel

On September 22, 2024, Mrs. Vega applied for LTSS Medicaid benefits with the Rhode Island Department of Human Services (DHS). (EOHHS Decision at 4.) In the application, Mrs. Vega indicated that she and her husband co-owned a residence in Puerto Rico (the Puerto Rico property). *Id.* DHS counted this out-of-state residence toward Mrs. Vega's resource limit. *Id.* This resulted in Mrs. Vega being over the resource limit for LTSS financial eligibility and the application being denied. *Id.* Mrs. Vega appealed DHS's denial of her application to the EOHHS. On April 9, 2025, Robert Pelosi, an appeals officer with the EOHHS, conducted a hearing regarding Mrs. Vega's denial. (Hr'g Tr. 1, Apr. 9, 2025.) Mr. Pelosi conducted the hearing via

Microsoft teams with Vivian Rivera Moreno, daughter of Mrs. Vega, and Vanessa Ward, Senior Casework Supervisor at DHS. *Id.* at 2. Ms. Moreno spoke on behalf of Mrs. Vega because Mrs. Vega has a limited proficiency in English. (EOHHS Decision at 2.)¹

At the hearing, Ms. Moreno stated that Mrs. Vega and her husband, Carmelo Rodriguez Vazquez, did own property in Puerto Rico. *Id.* at 5. Ms. Ward stated, on behalf of DHS, that DHS, after being told of the property, did not receive evidence that the Puerto Rico property was sold or not a countable asset. (Hr’g Tr. 2, Apr. 9, 2025.) DHS therefore counted the property’s value in full. *Id.* Ms. Moreno stated that multiple members of her family live on the property due to damages sustained to their community since Hurricane Maria *Id.* at 4. Further, Ms. Moreno described that the house was unsellable. *Id.* Ms. Moreno submitted into evidence documents from family members attesting to their residency but not the condition of the house. (EOHHS Decision at 2.) On May 19, 2025 Mr. Pelosi issued EOHHS’s decision upholding DHS’s denial of Mrs. Vega’s application. Mrs. Vega appealed to this Court on June 23, 2025 for review. (*See* Docket.)

II

Standard of Review

When reviewing the decisions of an administrative agency, the court “sits as an appellate court with a limited scope of review.” *Mine Safety Appliances Co. v. Berry*, 620 A.2d 1255, 1259 (R.I. 1993). This court’s review of an appeal from a decision of an administrative agency is governed by the Rhode Island Administrative Procedures Act (APA). Section 42-35-15; *see Rossi v. Employees’ Retirement System of the State of R.I.*, 895 A.2d 106, 109 (R.I. 2006). Section 42-35-15 provides, in pertinent part:

¹ This is gleaned by Appellant’s filing requesting a Court interpreter.

“(g) The court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings, or it may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:

“(1) In violation of constitutional or statutory provisions;

“(2) In excess of the statutory authority of the agency;

“(3) Made upon unlawful procedure;

“(4) Affected by other error of law;

“(5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or

“(6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.”
Section 42-35-15(g).

When reviewing a decision under the APA, the court may not substitute its judgment for that of the agency on questions of fact. *See Johnston Ambulatory Surgical Associates, Ltd. v. Nolan*, 755 A.2d 799, 805 (R.I. 2000). The court defers to the administrative agency’s factual determinations, provided that they are supported by legally competent evidence. *See Arnold v. Rhode Island Department of Labor and Training Board of Review*, 822 A.2d 164, 167 (R.I. 2003). “Legally competent evidence (sometimes referred to as ‘substantial evidence’) has been defined as ‘relevant evidence that a reasonable mind might accept as adequate [evidence] to support a conclusion[; it] means an amount more than a scintilla but less than a preponderance.’” *Town of Burrillville v. Rhode Island State Labor Relations Board*, 921 A.2d 113, 118 (R.I. 2007) (quoting *Center for Behavioral Health, Rhode Island, Inc. v. Barros*, 710 A.2d 680, 684 (R.I. 1998)). The court cannot “weigh the evidence [or] pass upon the credibility of witnesses [or] substitute its findings of fact for those made at the administrative level.” *E. Grossman & Sons, Inc. v. Rocha*, 118 R.I. 276, 285, 373 A.2d 496, 501 (1977). Where there is legally competent

evidence in the record to support the agency's decision, this court must uphold that decision. *Id.* at 285-86, 373 A.2d at 501; *see Barrington School Committee v. Rhode Island State Labor Relations Board*, 608 A.2d 1126, 1138 (R.I. 1992).

III

Analysis

DHS is responsible for the management of public assistance programs funded in part or in whole by the federal government, such as Medicaid. G.L. 1956 § 42-14-4. The LTSS Medicaid program is a product of the federal Medicaid program. *See* 42 U.S.C. §§ 1396a(e)(14)(D)(iv) and 1396(f). Implementation of LTSS Medicaid in Rhode Island, including the determination of eligibility is governed under G.L. 1956 §§ 40-8.9-8 and 40-8.10-6. Both statutes direct DHS and EOHHS to promulgate regulations in accordance with state and federal law. Sections 40-8.9-8 and 40-8.10-6. Of relevance here is 210 RICR 50-00-6.5 (2021), which sets the standards for determining resources for LTSS eligibility, and 210 RICR 40-00-3.6 (2024), which provides a set of combined definitions and standards that is relied upon by 210 RICR 50-00-6.5 (2021). Furthermore, G.L. 1956 § 42-7.2-6.1 and 210 RICR 10-05-2.2 designate EOHHS as the entity responsible for taking appeals and conducting hearings regarding Medicaid.

Under Rhode Island law, a person must meet financial eligibility requirements to qualify for LTSS, including being under a \$4,000 resource limit. *See* 210 RICR 50-00-6.5(A) (2021). The LTSS resource limit includes a variety of liquid and non-liquid assets that a person may rely upon to pay for medical services. Relevant to this case are the provisions for counting property assets. Under DHS and EOHHS regulations, residences are considered countable unless an

exception applies. *Id.* at 50-00-6.5 (2021). This includes out-of-state residences as defined under 210 RICR 40-00-3.6.5(A)(1)(a)(5) (2024):

“Out-of-State Residences. To be eligible for Medicaid, a person must be a Rhode Island resident and, as such, have intent to stay in the State permanently or for an indefinite period. Accordingly, an applicant who declares an out-of-State residential property as a home to return to is not considered a Rhode Island resident for the purposes of determining Medicaid eligibility. The out-of-State residence is considered a countable resource.” *See* 210 RICR 40-00-3.6.5(A)(1)(a)(5) (2024).

Here, the hearing officer decided that based on the representations by Ms. Moreno, Mrs. Vega is a Rhode Island resident and does not have an intent to return to Puerto Rico. (EOHHS Decision at 4.) The hearing officer correctly decided that Mrs. Vega therefore is not disqualified from Medicaid benefits by being an out-of-state resident, but the Puerto Rico property as an out-of-state residence is countable unless an exception applies. *Id.* at 5.

Ms. Moreno argues that the spouse or dependent child exception in 210 RICR 50-00-6.5.3(B)(2)(e) (2021) is applicable to the Puerto Rico residence. As discussed on page 3 of the EOHHS decision, 210 RICR 50-00-6.5.3(B)(2)(e) (2021) provides in full that:

“e. Residence of spouse or dependents. The entire value of a home is excluded, regardless of its equity value and without the need of an expression of the intent to return, if any of the following relatives of the LTSS applicant/beneficiary residing in a health institution is living in the property:

“(1) A spouse;

“(2) A child who is younger than twenty-one (21) years old or who is blind or permanently and totally disabled;

“(3) A sibling who has a legal interest in the home and who was living there for a period of at least one (1) year immediately before the applicant’s or beneficiary’s admission to the medical institution;

“(4) A son or daughter who was living in the home and shows, to the State’s satisfaction, that he or she served as

the primary caregiver for the LTSS applicant/beneficiary for a period of at least two (2) years immediately before admission to the health institution; or

“(5) A dependent relative has any kind of medical, financial, or other dependency on the LTSS applicant/beneficiary, including a child, stepchild, or grandchild; a parent, stepparent, or grandparent; an aunt, uncle, niece, or nephew; a brother, sister, stepbrother, or stepsister; a half-brother or half-sister; a cousin; or an in-law.” *See* 210 RICR 50-00-6.5.3(B)(2)(e) (2021).

The hearing officer, relying on Ms. Moreno’s representations at the hearing, thereafter properly found this exception was not applicable. First, Ms. Moreno stated that Mr. Vazquez, as the husband of Mrs. Vega, currently resides in Rhode Island and not at the Puerto Rico property. (EOHHS Decision at 4.) Mr. Vazquez currently does not have the intent to return to Puerto Rico, instead he probably will return after Mrs. Vega has died. (Hr’g Tr. 3, Apr. 9, 2025). Having made his residence with an intent to remain here in Rhode Island, the hearing officer found Mr. Vazquez is not a Puerto Rico resident and does not reside at the Puerto Rico property. (EOHHS Decision at 4). Since Mrs. Vega’s spouse does not reside at the Puerto Rico property, the hearing officer decided the spousal exception found in 210 RICR 50-00-6.5.3(B)(2)(e) (2021) is not applicable. *Id.*

Turning to the second provision in 210 RICR 50-00-6.5.3(B)(2)(e) (2021), the hearing officer correctly determined Mrs. Vega’s children did not satisfy the criteria. *Id.* at 5. Ms. Moreno described two of Mrs. Vega’s children, her siblings, living on the property alongside their families. (Hr’g Tr. 4, Apr. 9, 2025.) The hearing officer relied on the statements by each child, submitted into evidence by Ms. Moreno, that they lived at the residence. (EOHHS Decision at 2.) Neither these exhibits nor Ms. Moreno’s statements identify Mrs. Vega’s children as meeting the statutory criteria. As the hearing officer properly found, there is no evidence the children are under twenty-one or blind or totally disabled. *Id.* at 5. Lastly, Ms. Moreno described

that the Puerto Rico property was unsellable and at least one of the houses was uninhabitable *Id.* Despite these statements, neither Mrs. Vega nor Ms. Moreno submitted into evidence anything establishing the Puerto Rico property's value as low or a hardship preventing sale. *Id.* at 2. The hearing officer properly found that there was no evidence showing that the exception applied. *Id.* at 5.

Returning to the standard of review for agency decisions, this Court looks for “legally competent evidence,” which is evidence a “reasonable mind” could use to “support a conclusion[.]” *Town of Burrillville*, 921 A.2d at 118. Here, the hearing officer only had the application, hearing transcript, and two statements by residents of the Puerto Rico property confirming their residency. (EOHHS Decision at 2.) Based on these facts, it was not unreasonable for the hearing officer to come to the conclusions he did. As noted above, the hearing officer properly identified and applied the relevant regulations. The only inference the hearing officer made was the valuation of the property itself. This Court finds the hearing officer's valuation sufficient because a “reasonable mind” can accept the conclusion that the Puerto Rico property as described would be worth more than \$4,000. Ms. Moreno's statements described the Puerto Rico property as consisting of a family-sized residence and surrounding land. (Hr'g Tr. 4, Apr. 9, 2025.) Furthermore, unlike the court, the hearing officer was entitled to weigh the various descriptions of the property which this Court defers. *See e.g., Sheila A. Jordan v. Rhode Island Department of Human Services*, No. 2006-2626, 2007 WL 2360078, at 15-16 (R.I. Super. July 6, 2007) (emphasizing the deference to be accorded by this Court to the fact finder). It is the applicant's responsibility to support their application with evidence that the hearing officer can only rely upon. *Id.*

Again, this Court does not weigh the evidence or determine the credibility of witnesses. *See E. Grossman & Sons, Inc.*, 118 R.I. at 285, 373 A.2d at 501. This Court does not supplant the judgment of the agency for its own. *See Johnston Ambulatory Surgical Associates, Ltd.*, 755 A.2d at 805. Here, the hearing officer's decision was supported by the findings of fact available to him. The hearing officer provided a detailed explanation of how they applied the regulations based on the facts before them. This Court does not find the hearing officer's conclusion unreasonable or unsupported by the record that was before the EOHHS. While this Court is sympathetic to Mrs. Vega's struggles, she and Ms. Moreno did not provide sufficient evidence to support their claims. The statutes and regulations of Rhode Island are clear as to how the EOHHS counts resources and when exceptions are applicable. The hearing officer's straightforward application of Rhode Island law means the agency's decision is not arbitrary and capricious. *See Goncalves v. NMU Pension Trust*, 818 A.2d 678, 683 (R.I. 2003) ("the outcome is neither arbitrary nor capricious '[w]hen it is possible to offer a reasoned explanation, based on the evidence, for a particular outcome'" (quoting *Coleman v. Metropolitan Life Insurance Co.*, 919 F. Supp. 573, 581 (D.R.I. 1996) (In other words, "[w]hen it is possible to offer a reasoned explanation, based on the evidence, for a particular outcome," that outcome is not arbitrary or capricious.) *Id.* (internal quotation omitted).

IV

Conclusion

Appellant, Gregoria Moreno Vega's Appeal is **DENIED** and DHS's decision is **AFFIRMED**. This Court shall enter an order and separate judgment.



RHODE ISLAND SUPERIOR COURT

Decision Addendum Sheet

TITLE OF CASE: **Gregoria Moreno Vega v. Executive Office of Health and Human Services**

CASE NO: **PC-2025-03316**

COURT: **Providence County Superior Court**

DATE DECISION FILED: **October 6, 2026**

JUSTICE/MAGISTRATE: **Carnes, J.**

ATTORNEYS:

For Plaintiff: **Gregoria Moreno Vega, *pro se***

For Defendant: **Michael Coleman, Esq.**