STATE OF RHODE ISLAND

PROVIDENCE, SC. **SUPERIOR COURT**

(FILED: June 19, 2023)

DAVID GREENE	:	
	:	
v.	:	**C.A. NO. PC-2022-06016**
	:	
R.I. EXECUTIVE OFFICE OF HEALTH AND HUMAN SERVICES	:	

DECISION

PROCACCINI, J. Before this Court is David Greene's (Mr. Greene) appeal from a final decision of the State of Rhode Island Office of Health and Human Services (OHHS) finding Mr. Greene ineligible to receive benefits under the State's Medicare Premium Payment Program (MPPP). Jurisdiction is pursuant to G.L. 1956 § 42-35-15.

I

Facts and Travel

As of July 2020, Mr. Greene received $1,435 in Social Security disability benefits per month. (Transcript from OHHS Administrative Appeal Hearing (Transcript), at 4.) Mr. Greene lives with his wife and minor daughter, who each receive $503 monthly in Social Security benefits attributable to Mr. Greene's disability. *Id.* Mr. Greene is enrolled in Medicare and modified adjusted gross income (MAGI) Medicaid. (Compl. ¶ 4.) On January 20, 2021, OHHS sent Mr. Greene notice that his MPPP benefits were set to expire on February 28, 2021. (Transcript 3.) According to an OHHS employee, MPPP benefits provide financial assistance for payment of Medicare Part A and B premiums, Medicare deductibles, and coinsurance. *Id.* at 2-3; *see also* 210 RICR 40-05-1.6.1. Mr. Greene timely filed notice of appeal of the expiration of benefits on February 4, 2021. (Transcript 2.)

On July 19, 2022, OHHS conducted a telephonic appeal hearing with Mr. Greene's counsel present. *Id.* During the hearing, OHHS representative Alana Krava (Krava), Senior Eligibility Technician, testified that Mr. Greene qualified for MPPP and Medicaid but could not obtain both at the same time. *Id.* at 3. Specifically, Krava relayed that because Greene was eligible for MAGI Medicaid with his wife and child, he was ineligible for MPPP. *Id.* Krava further stated that Beneficiary Status of QI-1[1] is determined by the number of adults in the household, so in Mr. Greene's case, he and his wife are a household of two, and only their income is countable. *Id.* Accordingly, Krava believed Mr. Greene was ineligible for MPPP based on his and his wife's income. *Id.*

For MPPP income calculation purposes, Mr. Greene agreed that he is a family of two when using the Supplemental Security Income (SSI) methodology. *Id.* at 13. However, he maintained that "family size . . . is not calculated based on SSI methodology because SSI doesn't use family as a concept." *Id.* Instead, Mr. Greene asserted that "the SSI methodology is only for determining which income streams count." *Id.* Because there is "nothing in the federal . . . or the state law that would require a family member to be eligible for Medicare in order to be included . . . in his family[]," Mr. Greene contended that "family" should be defined by the dictionary definition and not by using the SSI methodology. *Id.* Consequently, Mr. Greene maintains that, because he lives with his minor daughter, OHHS should consider Mr. Greene and his family to be a family of three when determining MPPP eligibility. *Id.*

[1] QI-1 means "qualifying individual" and is an MPPP pathway, requiring that "beneficiaries must be entitled to Medicare Part A, have countable income of at least one hundred twenty percent (120%) FPL, but less than one hundred thirty-five percent (135%) FPL, resources that do not exceed the amounts set by the Federal government, . . . and be otherwise ineligible for Medicaid." 210 RICR 40-05-1.6.2(A)(7).

On September 26, 2022, OHHS filed its Administrative Hearing Decision affirming OHHS's initial denial of Mr. Greene's MPPP eligibility. (Record Ex. 14 (OHHS Decision), at 1.) In coming to this decision, the Hearing Officer determined that because Mr. Greene and his spouse are contemplated by the statute as Qualified Medicare Beneficiaries, the deliberate absence of children from this equation makes their inclusion in the calculation incorrect. *Id.* at 10. Moreover, the Hearing Officer further stated that "this program does not apply to a child." *Id.* These facts, according to the decision, preclude Mr. Greene's qualification for the MPPP. *See generally id.*

On October 17, 2022, Mr. Greene filed the present Complaint seeking judicial review of this OHHS determination. *See generally* Compl. Mr. Greene asks the Court to reverse OHHS's decision and provide him with MPPP benefits after calculating his family as a family of three. (Compl. 2.) On November 10, 2022, OHHS answered Mr. Greene's Complaint, denying its material allegations and requesting the Court dismiss said Complaint with prejudice. (Answer 2.) Upon order from the Court (Cruise, J.), Mr. Greene submitted his Brief in Support of Reversal of the final decision of OHHS on January 6, 2023. (Pl.'s Brief in Supp. of Reversal (Pl.'s Brief).) OHHS responded on March 1, 2023 with its Brief in Opposition to Reversal of the OHHS Decision. (Def.'s Brief in Opp'n to Reversal of Decision (Def.'s Opp'n Brief).) On March 13, 2023, Mr. Greene submitted his Reply Brief. (Pl.'s Reply Brief.)

II

Standard of Review

When reviewing the decision of an administrative agency, the Superior 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). The Court's review is governed by the Rhode Island Administrative Procedures Act (APA), G.L. 1956 chapter 35 of title 42. *See Iselin v. Retirement Board of*

Employees' Retirement System of R.I., 943 A.2d 1045, 1048 (R.I. 2008) (citing *Rossi v. Employees' Retirement System of R.I.*, 895 A.2d 106, 109 (R.I. 2006)). Section 42-35-15(g) provides, in pertinent part:

> "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).

"In essence, if 'competent evidence exists in the record, the Superior Court is required to uphold the agency's conclusions.'" *Auto Body Association of Rhode Island v. State of Rhode Island Department of Business Regulation*, 996 A.2d 91, 95 (R.I. 2010) (quoting *Rhode Island Public Telecommunications Authority v. Rhode Island State Labor Relations Board*, 650 A.2d 479, 484 (R.I. 1994)). 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. *Arnold v. Rhode Island Department of Labor and Training Board of Review*, 822 A.2d 164, 167 (R.I. 2003). 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).

Accordingly, the Court will '"reverse factual conclusions of administrative agencies only when they are totally devoid of competent evidentiary support in the record."' *Baker v. Department of Employment and Training Board of Review*, 637 A.2d 360, 363 (R.I. 1994) (quoting *Milardo v. Coastal Resources Management Council*, 434 A.2d 266, 272 (R.I. 1981)).

The Court is free to conduct a *de novo* review of determinations of law made by an agency. *See Arnold*, 822 A.2d at 167 (citing *Johnston Ambulatory Surgical Associates*, 755 A.2d at 805). As such, "when the language of the statute is clear and unambiguous, the court must interpret it literally, giving the words of the statute their plain and ordinary meanings." *Labor Ready Northeast, Inc. v. McConaghy*, 849 A.2d 340, 345 (R.I. 2004) (citing *Stebbins v. Wells*, 818 A.2d 711, 715 (R.I. 2003)). "An agency cannot modify the statutory provisions under which it acquired power, unless such an intent is clearly expressed in the statute." *Little v. Conflict of Interest Commission*, 121 R.I. 232, 236, 397 A.2d 884, 886 (1979). When a statute is ambiguous, "the construction given by the agency charged with its enforcement is entitled to weight and deference as long as that construction is not clearly erroneous or unauthorized." *Gallison v. Bristol School Committee*, 493 A.2d 164, 166 (R.I. 1985).

The Court is limited to the certified record in its determination as to whether legally competent evidence exists to support the agency's decision. *Barrington School Committee v. Rhode Island State Labor Relations Board*, 608 A.2d 1126, 1138 (R.I. 1992). Legally competent or substantial evidence is "relevant evidence that a reasonable mind might accept as adequate to support a conclusion, and means [an] amount more than a scintilla but less than a preponderance." *Caswell v. George Sherman Sand & Gravel Co., Inc.*, 424 A.2d 646, 647 (R.I. 1981).

III

Arguments

1. Mr. Greene

Mr. Greene argues that the Court should "[r]everse the decision and find that an individual living together with his spouse and minor child are a family of three for purposes of MPP [*sic*] and order Defendant to promptly provide Plaintiff with MPP [*sic*] benefits wrongfully denied[.]" (Compl. 2.) In favor of this position, Mr. Greene posits that OHHS's decision "is founded upon a misinterpretation of the unambiguous language in the Medicaid Act, 42 U.S.C. §§ 1396 *et seq.* . . . and violations [*sic*] of the Act based on that misinterpretation." (Pl.'s Brief 1.) Mr. Greene makes four arguments in support of his position. *Id.* at 8-16.

First, Mr. Greene maintains "[t]he unambiguous term 'family' must be given its plain meaning here." *Id.* at 8. "Including a minor child (who lives with the parents) within the term 'family' is self-evident[,]" according to Mr. Greene. *Id.* at 10. Second, Mr. Greene asserts that "[a] person does not need to be eligible for Medicare to be considered part of an MPP-applicant's [*sic*] family." *Id.* at 12. Third, Mr. Greene contends that OHHS's use of the SSI income methodology to calculate family size is "clear error." *Id.* at 13. Fourth, and lastly, Mr. Greene claims that "[c]onclusory guidance cannot trump the Act." *Id.* at 15.

2. OHHS

In response, OHHS urges the Court to affirm the administrative decision because "[t]he Appeal's [*sic*] Officer correctly upheld the Rhode Island Department of Human Services' decision comparing Plaintiff's countable income to the official Federal Poverty Line . . . applicable to a family of one." (Def.'s Opp'n Brief 1.) In support of this position, OHHS advances four arguments. *Id.* at 4-10.

First, OHHS asserts that the Appeal Officer's decision that an individual must be eligible for Medicare to be included in its family size determination was not clearly erroneous. *Id.* at 4. Next, OHHS submits that "[f]amily is vague when applied to a child so EOHHS's interpretation of that statute should control." *Id.* at 5. Third, OHHS advocates that the Court should follow the decision in *Karim* because the facts of that matter are "nearly identical" to the facts at hand. *Id.* at 7 (citing *Karim v. R.I. Executive Office of Health and Human Services*, No. PC-2021-03640, 2022 WL 3348756 (R.I. Super. Aug. 5, 2022)). Lastly, OHHS contends that "[a]uthorities cited by Plaintiff in his brief are not dispositive of this issue in this case." *Id.* at 10.

IV

Analysis

A

Applicable Law

States are not required to participate in the federal-state medical coverage program, Medicaid, but those states that do must comply with federal Medicaid law. *Wilder v. Virginia Hospital Association*, 496 U.S. 498, 501 (1990). General Laws 1956 § 40-8-1 established Rhode Island's Medicaid program to ensure that low-income Rhode Islanders receive affordable medical care. Section 40-8-1. General Laws 1956 § 42-7.2-6.1 and 210 RICR 10-05-2.2 authorizes and designates OHHS as the entity responsible for Medicaid appeals and hearings. Section 42-7.2-6.1(a)(2); 210 RICR 10-05-2. Federal law mandates state Medicaid agencies provide MPPP benefits to certain categories of people entitled to Medicare Part A. 42 U.S.C. § 1396a(a)(10)(A).

The MPPP helps low-income elders and adults with disabilities pay all or some of the costs of Medicare Part A and Part B premiums, deductibles, and co-payments.[2] 210 RICR 40-05-1.6.1(A).

The pathways to MPPP eligibility include Qualified Medicare Beneficiaries (QMBs), Specified Low Income Medicare Beneficiaries (SLIMBs), and Qualified Individuals (QI-1s). 210 RICR 40-05-1.6.2. MPPP eligibility is based on the applicant's countable income and resources calculated by using the SSI methodology. 42 U.S.C. § 1396d(p)(1)(B). In Rhode Island, OHHS determines an MPPP applicant's countable income by applying the SSI methodology for the applicable beneficiary status. 42 U.S.C. § 1396d(p)(1); 210 RICR 40-05-1.6.2. Therefore, a person's income and resources, applied to the SSI methodology, determine whether a person is MPPP eligible. 210 RICR 40-05-1.6.1(A)(1). The SSI methodology for QI-1 necessitates that some or all the income of a spouse who is ineligible for MPPP but lives with the applicant must be "deemed"[3] to the applicant. 20 C.F.R. §§ 416.1160, 1163; 210 RICR 40-05-1.11.5(B). The deeming of income from child to parent, however, is prohibited. 210 RICR 40-05-1.11.5(D). Therefore, when determining a person's initial eligibility and countable income for MPPP purposes, income cannot be deemed from a child to a parent. 210 RICR 40-05-1.11.5(D)(1).

The applicant's countable income is then compared to the Federal Poverty Line (FPL) applicable to the "family of the size involved." 42 U.S.C. § 1396a(a)(10)(E)(i),(iii); 210 RICR 40-05-1.6.2(A). QMBs must have countable income of no greater than 100 percent of the FPL applicable to the "family of the size involved"; SLIMBs must have countable income over 100 percent of the FPL but under 120 percent of the FPL applicable to the "family of the size involved";

[2] Medicare Part A covers hospital insurance coverage and Medicare Part B covers physician services, durable medical equipment, and outpatient services. 210 RICR 40-05-1.6.1(A)(2).
[3] Deemed income is income attributed to another person whether or not the income is actually available to the person to whom it is deemed. 210 RICR 40-05-1.4

and QI-1s must have countable income of 120 percent to 135 percent of the FPL applicable to the "family of the size involved." 42 U.S.C. § 1396a(a)(10)(E)(iii). While QMBs and SLIMBs can have both MPPP and Medicaid, QI-1s cannot have both MPPP and Medicaid. 42 U.S.C. § 1396a(a)(10)(E)(iv).

B

"Family of the Size Involved" is Unambiguous

To reiterate, the Court may conduct a *de novo* review of an agency's determinations of law. *See Arnold*, 822 A.2d at 167 (citing *Johnston Ambulatory Surgical Associates*, 755 A.2d at 805). '"When a statute is clear and unambiguous [Rhode Island Courts] are bound to ascribe the plain and ordinary meaning of the words of the statute[.]"' *Bucci v. Lehman Brothers Bank, FSB*, 68 A.3d 1069, 1078 (R.I. 2013) (quoting *Town of Burrillville v. Pascoag Apartment Associates, LLC*, 950 A.2d 435, 445 (R.I. 2008)). '"When [courts in this State] examine an unambiguous statute, there is no room for statutory construction and [courts] must apply the statute as written."' *Morel v. Napolitano*, 64 A.3d 1176, 1179 (R.I. 2013) (quoting *Mutual Development Corp. v. Ward Fisher & Co., LLP*, 47 A.3d 319, 328 (R.I. 2012)). Here, each party takes a different position as to whether "family of the size involved" is ambiguous. *See* Pl.'s Brief 1; *see also* Def.'s Opp'n Brief 5. For the reasons stated herein, the Court agrees with Mr. Greene that "family of the size involved" is unambiguous, and the phrase must be given its "plain and ordinary meaning." *See Bucci*, 68 A.3d at 1078.

A survey of a decision from this Court and other jurisdictions' analysis of "family of the size involved" aids the Court in determining whether ambiguity exists. Principally, this Court, in *Stanley v. R.I. Executive Office of Health and Human Services*, Nos. PC-2015-1857, PC-2015-3094, 2016 WL 3453822 (R.I. Super. June 21, 2016), held "the term 'family of the size involved'

is not ambiguous[.]" *Stanley*, 2016 WL 3453822, at *5. In that consolidated matter, two Medicare beneficiaries were denied MPPP benefits based on OHHS's determination that their family member's lack of income precluded them from being considered part of the "filing unit." *Id.* at *4. The court, in concluding that "family" was unambiguous, reasoned that "ambiguity 'at the margins' does not mean that a term is ambiguous as it is used in the matter at issue" and "that there are words and phrases that may be ambiguous in some contexts, but unambiguous in other[s.]" *Id.* at *5 (citing *Wheaton v. McCarthy*, 800 F.3d 282, 287 (6th Cir. 2015)).

Outside of this state, in *Martin v. North Carolina Department of Health and Human Services*, 670 S.E.2d 629 (N.C. Ct. App. 2009), the North Carolina Court of Appeals, after applying the dictionary definition of "family[,]" held that family included a woman's disabled husband in its Medicaid benefits calculation. *Martin*, 670 S.E.2d at 635. There, a woman's Medicaid application was denied at the administrative level because her income exceeded the allowable income as applied to the federal poverty line. *Id.* at 633. The court affirmed the reversal of the administrative decision, reasoning that:

> "SSI methodology applies only to determinations of *income* discussed in paragraphs (1)(B) and (1)(C). *Income level*, as provided for in paragraph (2)(A), is not determined by SSI methodology, but instead is to be determined in part by 'the percent provided under subparagraph (B) . . . of the official poverty line . . . applicable to a family of the size involved.' 42 U.S.C. § 1396d(p)(2)(A). This aspect of the statute is not ambiguous. However, Title 42 does not define 'a family of the size involved.' Where a statute does not define a term, we must rely on the common and ordinary meaning of the words used. *See Lafayette Transportation Service, Inc. v. County of Robeson*, 196 S.E.2d 770, 774 (N.C. 1973). A family is defined as 'a group consisting of parents and their children; a group of persons who live together and have a shared commitment to a domestic relationship.' Black's Law Dictionary 637 (8th ed. 2004)." *Id.* at 634.

Correspondingly, the Court finds most persuasive the decision in *Wheaton*, a United States Court of Appeals for the Sixth Circuit case, that held the application of the term "family" is "simple." *Wheaton*, 800 F.3d at 289. The court stated "[a] 'family' can refer to a 'group of individuals living under one roof and usually under one head[,]' or 'the basic unit in society traditionally consisting of two parents rearing their children,' or 'a group of persons of common ancestry,' or 'a group of people united by certain convictions or a common affiliation[.]'" *Id.* at 287 (citing Merriam-Webster Dictionary (online edition)).

In further support of its conclusion that "family" was unambiguous, the *Wheaton* court averred:

> "Reasonable people might disagree, as a matter of ordinary usage, as to whether the term 'family' should include adult children who live with their parents, or a 17 year-old child who does not, or nieces and nephews who live with their aunts and uncles. Thus, as a practical matter, it is likely up to the State whether to count those persons as part of the beneficiary's family under §§ 1396d(p)(2) and 1396a(a)(E)(10). But that does not mean the term family is ambiguous *as applied here*. Sometimes, of course, a statutory term is ambiguous *in toto;* the so-called 'residual clause' of the Armed Career Criminal Act, 18 U.S.C. § 924(e)(2)(B), is an example. *See Johnson v. United States*, [576 U.S. 591, 596 (2015)]. Terms that are ambiguous in that sense do not clearly encompass anything. But some terms are ambiguous only at the margins, while clearly encompassing a certain core. The phrase 'uses a firearm during and in relation to a drug crime'—to paraphrase 18 U.S.C. § 924(c)(1)(A)—might be ambiguous as applied to a defendant who barters his pistol for cocaine, *see Smith v. United States*, 508 U.S. 223 . . . (1993); but there is no doubt that it covers a defendant who demands payment for drugs at gunpoint. The term 'planet' might be ambiguous as applied to Pluto, but is clear as applied to Jupiter. And though there might be some ambiguity in 2015 as to whether Ukraine's borders encompass the Crimean Peninsula, there is no doubt that Kiev lies within them. So too here: whatever ambiguity the 'persons living under one roof' or 'basic unit of society' definitions might have at the margins, there is no doubt that, under either definition, a person's family includes her resident spouse." *Wheaton*, 800 F.3d at 287.

Moreover, the *Wheaton* court addressed several other arguments raised by the State of Ohio, positions similarly proffered by the state here. *Id.* First, Ohio maintains that, if Congress wishes to establish a condition on a given state's acceptance of federal funds, '"it must do so unambiguously[.]"' *Id.* (quoting *Haight v. Thompson*, 763 F.3d 554, 569 (6th Cir. 2014). The court rejected that position, however, and reasoned "it should have been clear to Ohio that the word 'family,' as used in the provisions here, does not mean whatever the State's officials want it to mean[.]" *Id.* at 287-88. Second, Ohio advanced that "family of the size involved" does not have an ordinary meaning. *Id.* at 288. The difference, according to Ohio, allows a state to "define it in whatever way makes good policy sense." *Id.* Despite this, the court found that "[t]he word 'involved' simply . . . directs the State to consider the federal poverty line for the *beneficiary's* family, rather than someone else's." *Id.* Further, the term "size" is undisputable and must encompass its "core meaning." *Id.*

Ohio also attempted to argue that it may define a person's income in the same way it determines a person's income "for purposes of the supplemental security income [SSI] program[.]" *Id.* (citing 42 U.S.C. § 1396d(p)(1)(B)). According to this position, Ohio believed "it may then compare the beneficiary's income not to the need standard specified in paragraph (2)(A) . . . but to the so-called 'individual-need' standard used under the SSI program." *Id.* (citing § 1382; 20 C.F.R. Ch. III., Pt. 416 Subpts. D and K). The court rejected Ohio's attempt to use this standard, stating "§ 1396d(p)(2)(A) conspicuously omits any cross-reference to the SSI program's individual-need standard." *Id.*

Here, "family of the size involved" is not ambiguous, necessitating that the Court give the term its plain meaning. *See Bucci*, 68 A.3d at 1078; *see also Stanley*, 2016 WL 3453822, at *5. "Family" is defined as "the basic unit in society traditionally consisting of two parents rearing their

children" or "a group of individuals living under one roof and usually under one head." Merriam-Webster Dictionary (online edition). Undoubtedly, using any of these definitions, children must be included within the word "family['s]" meaning. *See id.* As the *Wheaton* court noted, family "does not mean whatever [state] officials want it to mean[.]" *Wheaton*, 800 F.3d at 287-88.

Even more, the Court rejects OHHS's attempt to use the SSI methodology to calculate the family size compared against Mr. Greene's income. (Def.'s Opp'n Brief 5.) In *Martin*, the court declared that the "SSI methodology applies only to determinations of *income* discussed in paragraph's (1)(B) and (1)(C)[,]" not an applicant's "[*i*]*ncome level*[,]" as applied to the federal poverty line. *Martin*, 670 S.E.2d at 634. This distinction gives no support to OHHS's position that it "was entitled to define 'family of the size involved' by using the SSI methodology and such definition should be given deference by this Court." (Def.'s Opp'n Brief 5.) By contrast, the Court follows *Martin* and relies "on the common and ordinary meaning of the words used." *Martin*, 670 S.E.2d at 634 (citing *Lafayette Transportation Service, Inc. v. County of Robeson*, 196 S.E.2d 770, 774 (N.C. 1973)).

OHHS also contends that "the only reasonable interpretation of the statute" is that a family member must be eligible for the MPPP to be included in the family size definition. (Def.'s Opp'n Brief 4.) Because children are not eligible for the MPPP and their income is not deemed to their parents, according to OHHS, only individuals and couples are considered part of the family size. *Id.* (citing 210 RICR 40-05-1.6.5.) However, OHHS relies on extrinsic evidence to create ambiguity in the term "family of the size involved[,]" a prohibited practice in this State. *Id.*; *see also Nunes v. Town of Bristol*, 102 R.I. 729, 738, 232 A.2d 775, 780 (1967) (holding that a court

may look to extrinsic evidence only to examine legislative intent when "the language is ambiguous or uncertain").

Like the courts in *Martin* and *Wheaton*, this Court agrees family is unambiguous and thus applies its plain and ordinary meaning, a definition that includes a couple's children. *Martin*, 670 S.E.2d at 635. The *Wheaton* court stated that "[r]easonable people might disagree . . . as to whether . . . adult children who live with their parents" may be considered as "family." *Wheaton*, 800 F.3d at 287. Here, following that logic, clearly Mr. Greene's *thirteen-year-old* daughter would be included in the term "family." *Id.*; (Transcript 10) (emphasis added). Consequently, the Court finds OHHS wrongfully considered Mr. Greene and his family to be a family of two and should have considered them to be a family of three. *Wheaton*, 800 F.3d at 288; (Compl. ¶ 2.)

Furthermore, OHHS advocates that the Court should defer to OHHS's interpretation of the statute because family is "vague." (Def.'s Opp'n Brief 5.) To this point, OHHS argues that the cases referred to in Mr. Greene's brief "leave open whether [family of the size involved] is vague with respect to other relatives of an applicant." *Id.* For that reason, OHHS urges the Court to adopt its interpretation of the statute. *Id.* OHHS is mistaken in this position, however, because the Court only applies the "not clearly erroneous or unauthorized" standard to the interpretation of *ambiguous* statutes. *See Gallison*, 493 A.2d at 166. Additionally, 42 U.S.C. § 1396a is a federal statute, and "[a] state agency's interpretation of federal statutes is not entitled to the deference afforded a federal agency's interpretation of its own statutes." *Martin*, 670 S.E.2d at 632 (internal quotation omitted). Since the Court has already determined the statute is unambiguous, this argument fails. *See id.* at 635; *see also Wheaton*, 800 F.3d at 288.

In its brief, OHHS relies heavily on a recent Rhode Island Superior Court matter, *Karim v. R.I. Executive Office of Health and Human Services*, as support for its position. (Def.'s Opp'n

Brief 8 (citing *Karim v. R.I. Executive Office of Health and Human Services*, No. PC-2021-03640, 2022 WL 3348756, at* 1 (R.I. Super. August 5, 2022)). While the Court proceeds in today's decision mindful of *Karim*'s thoughtful reasoning, it has long been established that Superior Court cases are not binding precedent on future outcomes, even if similar facts are present. *See Breggia v. Mortgage Electronic Registration Systems, Inc.*, 102 A.3d 636, 641 n.6 (R.I. 2014). As such, the Court respectfully departs from *Karim*'s conclusion. *Id.*

Finally, OHHS maintains that, because the cases cited by Mr. Greene are not binding on the Court for this issue, the Court should decline to follow their holdings. (Def.'s Opp'n Brief 10.) Nevertheless, besides *Karim*, this is an issue of first impression in Rhode Island and requires examining decisions of other courts that have dealt with this specific issue: whether "family of the size involved is ambiguous." *Karim*, 2022 WL 3348756; *see, e.g., Emerson v. Magendantz*, 689 A.2d 409, 411-12 (R.I. 1997) (looking to decisions of other state courts to resolve an issue of first impression in Rhode Island). Therefore, OHHS's argument that "the same decision [as Karim] should be reached here[]" is rejected. (Def.'s Opp'n Brief 10.)

C

Attorney's Fees

Further, Mr. Greene seeks an award of attorney's fees pursuant to the Equal Access to Justice Act (EAJA). (Compl. 2) (citing G.L. 1956 § 42-92-1). Under the EAJA, Mr. Greene shall recover reasonable attorney's fees if deemed to be the prevailing party in litigation against a state agency, unless the position of the agency is "substantially justified." *See* § 42-92-3. To establish its position as substantially justified, the agency has the burden to show that its perspective was at least "'clearly reasonable, well founded in law and fact, solid though not

necessarily correct.'" *Taft v. Pare*, 536 A.2d 888, 893 (R.I. 1988) (quoting *United States v. 1,378.65 Acres of Land*, 794 F.2d 1313, 1318 (8th Cir. 1986)).

Because *Karim*, a decision that predated this lawsuit by three months, held that children were excluded from the definition of "family of the size involved[,]" OHHS was "substantially justified" in relying on its interpretation. *Karim*, 2022 WL 3348756. Thus, the Court, while ultimately ruling in favor of Mr. Greene, finds that the position of OHHS was at least '"clearly reasonable, well founded in law and fact, solid though not necessarily correct."' *Taft*, 536 A.2d at 893 (quoting *1,378.65 Acres of Land*, 794 F.2d at 1318). Therefore, the Court holds that OHHS was substantially justified in its position and declines to award Mr. Greene attorney's fees.

V

Conclusion

For the reasons stated herein, the Court reverses the decision of OHHS denying MPPP benefits due to Mr. Greene having an income exceeding the income limit for a "family of the size involved." The Court finds OHHS's policy interpretation to be contrary to the plain meaning of the applicable statutes. OHHS is ordered to provide the value of the MPPP benefits that were improperly withheld. However, the Court declines to award attorney's fees to Mr. Greene, finding that OHHS was substantially justified in its position. Counsel shall prepare an appropriate judgment for entry.

RHODE ISLAND SUPERIOR COURT

Decision Addendum Sheet

TITLE OF CASE:	**David Greene v. R.I. Executive Office of Health and Human Services**
CASE NO:	**PC-2022-06016**
COURT:	**Providence County Superior Court**
DATE DECISION FILED:	**June 19, 2023**
JUSTICE/MAGISTRATE:	**Procaccini, J.**
ATTORNEYS:	
For Plaintiff:	**Nora Salomon, Esq.**
For Defendant:	**Amy V. Coleman, Esq.**