

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3725

████████████████████
Signature Confirmation

Client ID # ██████████
Request # 124146

NOTICE OF DECISION

PARTY

████████████████████
████████████████████

PROCEDURAL BACKGROUND

On ██████████, the Department of Social Services (the "Department") sent ██████████, (the "Appellant") a Notice of Action ("NOA") denying her medical assistance application for benefits under the Medicaid Home Care Waiver for Adults ("W01") program for ██████████.

On ██████████, the Appellant requested an administrative hearing to contest the Department's decision to deny such benefits.

On ██████████, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████.

On ██████████, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing. The following individuals were present at the hearing:

- ████████████████████, Appellant
- ████████████████████, Appellant's Daughter and Representative
- Ilijana Sabani, Department Representative
- Ebony Jackson, Department Representative, via telephone
- Victor Robles, Department Representative, via telephone
- Shelley Starr, Hearing Officer

The hearing record was held open for the submission of additional evidence from the Department. The additional evidence was received. On [REDACTED], the hearing record closed.

STATEMENT OF THE ISSUE

The issue is whether the Department correctly denied the Appellant's Medicaid Home and Community Based Services application due to excess assets.

FINDINGS OF FACT

1. On [REDACTED], the Appellant applied for Medicaid Husky C under the Home and Community Based Services ("W01") program. (Hearing Summary; Exhibit 12: Case Notes)
2. The Appellant is [REDACTED] years old [REDACTED], and resides with [REDACTED] (Representative's Testimony; Hearing Record)
3. The Appellant reported having a [REDACTED] and an [REDACTED] with [REDACTED] on her W-1LTC application. (Exhibit 8: W01LTC Application dated [REDACTED])
4. On [REDACTED], the Department sent the Appellant a W-1348 LTC Verification We Need form requesting items needed to establish eligibility. Among the verification requested was to provide proof of the current face value and cash surrender value of all life insurance policies owned within the last five years, including [REDACTED]. The form further indicated "Be advised that if the face value is over \$1,500.00, then the cash surrender value counts towards the total asset limit of \$1,600.00. This may put the applicant over the asset limit, which means the policy may have to be cashed out, have a loan taken from it, be bought out by another individual, or be signed over to a funeral home in order to purchase funeral contracts (Connecticut laws allows for an irrevocable contract of up to \$8,000 and a separate contract for burial space items such as the casket and container.) Verification of how the funds are spent must be provided, and the funds must be spent on the applicant." The verification was [REDACTED]. (Hearing Summary; Exhibit 1: W-1348LTC dated [REDACTED])
5. On [REDACTED], the Department sent the Appellant a W-1348LTC Verification We Need form requesting items needed to establish eligibility. Among the verification requested was to provide proof of the current face value and cash surrender value for all life insurance policies owned within the last five years including policies with [REDACTED]. The form further indicated "a letter from the company is needed. Be advised that if the face value is over \$1,500.00, then the cash surrender value counts towards the total asset limit of \$1,600.00. This may put the applicant over the

asset limit, which means the policy may have to be cashed out, have a loan taken from it, be bought out by another individual, or be signed over to a funeral home in order to purchase funeral contracts (Connecticut law allows for an irrevocable contract of up to \$8,000 and a separate contract for burial space items such as the casket and container). Verification of how the funds are spent must be provided, and the funds must be spent on the applicant.” The verification was due by [REDACTED]. (Hearing Summary; Exhibit 1: W-1348LTC Request #2 dated [REDACTED])

6. On [REDACTED], the Department reviewed the Appellant’s application based on the provided verification, however some verification remained outstanding including verification of the [REDACTED]. (Hearing Summary; Department’s Testimony; Hearing Record)
7. On [REDACTED], the Department determined the Appellant’s verified countable assets were as follows: [REDACTED] and [REDACTED]. (See Chart Below:

Name of Asset	Face Value	Cash Value
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

(Hearing Summary; Exhibit 2: [REDACTED] thru [REDACTED]; Exhibit 3: [REDACTED]; Exhibit 4: [REDACTED] e [REDACTED]; Exhibit 8 W-1LTC application signed [REDACTED])

8. The asset limit for the Medicaid program is \$1,600.00. (Hearing Summary; Hearing Record)
9. On [REDACTED], the Department sent the Appellant a Notice of Action denying The Husky C- Home and Community Based Services for [REDACTED] because “the value of your assets is more that the amount we allow you to have; you did not return all of the required proofs by the date we asked; does not meet program requirements.” (Exhibit 9: Notice of Action dated [REDACTED])

CONCLUSIONS OF LAW

1. Section 17b-260 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the Medicaid program.
2. Uniform Policy Manual (“UPM”) § 4005.05 (B) (1) provides that the Department counts the assistance unit’s equity in an asset toward the asset limit if the asset is

not excluded by state or federal law and is either: available to the unit; or deemed available to the assistance unit.

3. UPM § 4030 provides that the Department evaluates all types of assets available to the assistance unit when determining the unit's eligibility for benefits.
4. Connecticut General Statutes 17b-261(c) provides that for the purposes of determining eligibility for the Medicaid program, an available asset is one that is actually available to the applicant or one that the applicant has the legal right, authority or power to obtain or to have applied for the applicant's general or medical support. If the terms of a trust provide for the support of an applicant, the refusal of a trustee to make a distribution from the trust does not render the trust an unavailable asset. Notwithstanding the provisions of this subsection, the availability of funds in a trust or similar instrument funded in whole or in part by the applicant or the applicant's spouse shall be determined pursuant to the Omnibus Budget Reconciliation Act of 1993, 42USC 1396p.

UPM § 4005.05 (B) (2) provides that under all programs except Food Stamps, the Department considers an asset available when actually available to the individual or when the individual has the legal right, authority or power to obtain the asset, or to have it applied for, his or her general or medical support.

The Department correctly considered the Appellant's available assets in the Determination of Medicaid eligibility.

5. UPM § 4005.05 (D) provides that an assistance unit is not eligible for benefits under a particular program if the unit's equity in counted assets exceeds the asset limit for the particular program.

UPM § 4005.10 (A) (2) (a) provides that the asset limit for Medicaid for a needs group of one is \$1,600.00.

The Department correctly determined that the Medicaid asset limit is \$1,600.00.

6. UPM § 4005.15 provides that at the time of application, the assistance unit is ineligible for assistance until the first day it reduces its equity in counted assets to within the particular program asset limit.
7. UPM § 4030.30 (C) provides for the treatment of Life Insurance policies; If the total face value of all life insurance policies owned by the individual does not exceed \$1,500, the cash surrender value of such policies is excluded. In computing the face value of life insurance, the Department does not count insurance such as term insurance which has no cash surrender value. Except as provided above, the cash surrender value of life insurance policies owned by the individual is counted towards the asset limit.

The Department correctly determined that the Appellant's [REDACTED] [REDACTED] [REDACTED] had a total face value exceeding \$1,500.00.

The Department correctly determined that the [REDACTED] and [REDACTED] of her [REDACTED] were accessible and countable.

The Department correctly determined that the Appellant's assets exceeded the \$1,600.00 asset limit.

On [REDACTED], the Department correctly denied the Appellant's [REDACTED] Home Care Waiver application because the Appellant's assets exceeded the Medicaid asset limit of \$1,600.00.

DECISION

The Appellant's appeal is **DENIED**.


Shelley Starr
Hearing Officer

pc: Peter Bucknall, Operations Manager, DSS, Waterbury Regional Office
Karen Main, Operations Manager, DSS, Waterbury Regional Office

RIGHT TO REQUEST RECONSIDERATION

The appellant has the right to file a written reconsideration request within **15** days of the mailing date of the decision on the grounds there was an error of fact or law, new evidence has been discovered or other good cause exists. If the request for reconsideration is granted, the appellant will be notified within 25 days of the request date. No response within 25 days means that the request for reconsideration has been denied. The right to request a reconsideration is based on §4-181a (a) of the Connecticut General Statutes.

Reconsideration requests should include specific grounds for the request: for example, indicate what error of fact or law, what new evidence, or what other good cause exists.

Reconsideration requests should be sent to: Department of Social Services, Director, Office of Administrative Hearings and Appeals, 55 Farmington Avenue Hartford, CT 06105.

RIGHT TO APPEAL

The appellant has the right to appeal this decision to Superior Court within 45 days of the mailing of this decision, or 45 days after the agency denies a petition for reconsideration of this decision, provided that the petition for reconsideration was filed timely with the Department. The right to appeal is based on §4-183 of the Connecticut General Statutes. To appeal, a petition must be filed at Superior Court. A copy of the petition must be served upon the Office of the Attorney General, 55 Elm Street, Hartford, CT 06106 or the Commissioner of the Department of Social Services, 55 Farmington Avenue Hartford, CT 06105. A copy of the petition must also be served on all parties to the hearing.

The 45 day appeal period may be extended in certain instances if there is good cause. The extension request must be filed with the Commissioner of the Department of Social Services in writing no later than 90 days from the mailing of the decision. Good cause circumstances are evaluated by the Commissioner or the Commissioner's designee in accordance with §17b-61 of the Connecticut General Statutes. The Agency's decision to grant an extension is final and is not subject to review or appeal.

The appeal should be filed with the clerk of the Superior Court in the Judicial District of New Britain or the Judicial District in which the appellant resides.