

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

██████████ 2018
Signature Confirmation

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

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2017, the Department of Social Services (the “Department”) sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) discontinuing his benefits from HUSKY C Medicaid for Individuals Receiving Home and Community Based Services because his income exceeded the limit for the program.

On ██████████, 2017, the Appellant, through his granddaughter and authorized representative, ██████████, requested an administrative hearing to contest the Department’s action.

On ██████████, 2017, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2017.

On ██████████, 2017, at the Appellant’s request, OLCRAH issued a notice rescheduling the hearing for ██████████ 2017.

On ██████████ 2017, at the Appellant’s request, OLCRAH issued a notice rescheduling the hearing for ██████████ 2017.

On ██████████ 2017, at the Appellant’s request, OLCRAH issued a notice rescheduling the hearing for ██████████, 2018.

On [REDACTED] 2018, 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:

[REDACTED], Appellant's granddaughter and power of attorney
Samantha Stone, Department's Representative, via telephone
Garfield White, Department's Representative, observing
James Hinckley, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether the Department was correct when it discontinued the Appellant's Medicaid because his income exceeded the limit for the program.

FINDINGS OF FACT

1. The Appellant has been an ongoing recipient of Medicaid for Home and Community Based Services. (Hearing Record)
2. The Appellant has two sources of income, Social Security and a private pension, and both are subject to annual cost of living adjustments ("COLAs"). (Hearing Record)
3. Changes to the Appellant's Social Security benefit amount, such as the annual COLA, are updated on the Department's computer system through an automated interface with federal Social Security records. (Testimony)
4. Changes to the Appellant's private pension amount are updated when the change is reported, or when the Department otherwise becomes aware of the change. (Testimony)
5. On [REDACTED] [REDACTED], 2017, the Department completed a review of the Appellant's eligibility and confirmed that the Appellant's private pension increased from the 2016 amount of \$1,078.41, to \$1,110.76 in 2017. (Ex. 3: 2016 pension stub, Ex. 4: 2017 pension stub, Ex. 5: Case notes)
6. The Appellant's 2017 income consisted of \$1,109.00 Social Security, plus \$1,110.76 private pension, for a total of \$2,219.76 in total monthly income. (Hearing Record)
7. On [REDACTED], 2017, the Department sent the Appellant a NOA that his benefits from the HUSKY C – Individual Receiving Home and Community

Based Services program were being discontinued effective [REDACTED] 1, 2017, because his income exceeded the limit for the program. (Ex. 1: NOA dated [REDACTED]/17)

CONCLUSIONS OF LAW

1. Section 17b-2 and § 17b-260 of the Connecticut General Statutes, authorizes the Department of Social Services to administer the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Uniform Policy Manual (“UPM”) § 4530.10 provides that:

A. Provisions

1. A Special Categorically Needy Income Limit (Special CNIL) is established for the following individuals:
 - a. persons residing in long-term care facilities; and
 - b. individuals living in the community who have been determined to be eligible for home and community-based services. (Cross Reference: 2540)
2. The Special CNIL is based on the maximum SSI benefit for a single individual living alone.

B. Standard of Assistance

The special CNIL is 300 percent of the current maximum SSI benefit for a single individual living alone.

3. UPM § 5520.15 (A)(3) provides that:

An assistance unit is income eligible to receive Home and Community Based Services if it:

- a. is eligible and receiving cash assistance; or
- b. has gross monthly income which is less than 300% of the maximum SSI benefit given to an individual living in his or her home. (Cross Reference: 5045 “Post-Eligibility Treatment of Income”)

4. In 2017 the maximum SSI benefit given to an individual living in his or her home was \$735.00, and 300% of the maximum amount was \$2,205.00. [Federal Register Vol. 89, No. 208, pp. 74854-74859, ██████████ 2016]
5. The Appellant's 2017 income of \$2,219.76 exceeded 300% of the maximum SSI benefit for a single individual living alone, which was \$2,205.00.
6. The Department was correct when, on ██████████ 2017, it notified the Appellant that he was no longer eligible for the HUSKY C – Individual Receiving Home and Community Based Services program because his income exceeded the limit for the program.

DISCUSSION

The Appellant's authorized representative is aware that creating an income trust is a method by which the Appellant may regain eligibility for the HUSKY C – Individual Receiving Home and Community Based Services program, and is in the process of creating such a trust.

DECISION

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



James Hinckley
Hearing Officer

cc: Musa Mohamud
Judy Williams
Jay Bartolomei
Samantha Stone

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, law, and 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 Legal Counsel, Regulations, and Administrative Hearings, 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, if 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 his 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.