

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 # ██████████

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████, the Department of Social Services (the “Department”) sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) granting her application for HUSKY C Medicaid for Long Term Care Facility Residents beginning ██████████ but denying the benefits for the period from ██████████ to ██████████, inclusive, for the reason that the value of her assets was more than the amount she was allowed to have in each of the denied months.

On ██████████ the Appellant, by her conservator, requested an administrative hearing to contest the Department’s decision to deny benefits for the months prior to ██████████

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, 17-61 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:

████████████████████, conservator of person and estate for the Appellant
Omayra Otero, Hartford Hearing Liaison, observing
Rachel Figueroa, Department’s representative, via telephone
James Hinckley, Hearing Officer

STATEMENT OF THE ISSUE

1. The issue to be decided is whether the Department was correct when it denied the Appellant's application for HUSKY C Medicaid for the months of [REDACTED] to [REDACTED], inclusive, for the reason that her assets exceeded the limit for the program in those months.

FINDINGS OF FACT

1. The Appellant is a [REDACTED] year old woman who suffered a stroke and who has, since that time, been nonverbal and incapacitated. (Hearing Record)
2. As a result of her becoming incapacitated due to her stroke, on [REDACTED], [REDACTED]. (the "Conservator") was named conservator of person and estate for the Appellant by the Probate Court. (Conservator's testimony, Ex. 2: Probate conservatorship appointment)
3. In [REDACTED], the Conservator opened a conservatorship account for the Appellant at [REDACTED], account number: [REDACTED], with an opening balance of \$1,977.14. (Conservator's testimony, Hearing Record)
4. On [REDACTED], the Conservator applied for Medicaid benefits on behalf of the Appellant, to pay for Long Term Care and/or Home Care Services. (Hearing Record, Ex. 1: Application Information)
5. The Conservator did not know the Appellant prior to his appointment. (Conservator's testimony)
6. The Appellant was not able to aid the Conservator in the Medicaid application process, nor did she have family members who were particularly knowledgeable about her circumstances, or willing to aid the Conservator in the Medicaid application process. (Conservator's testimony)
7. In [REDACTED], the Conservator discovered the existence of several accounts at [REDACTED] Credit Union that he previously had no knowledge of, with balances totaling approximately \$47,000.00, and shortly thereafter deposited the funds into the conservatorship account and spent down the assets. (Conservator's testimony, Hearing Record)
8. In [REDACTED], the Conservator discovered two additional accounts owned by the Appellant at [REDACTED], a small savings account and a certificate of deposit with a balance of \$15,599.47, and the proceeds from the two accounts were deposited into the conservatorship account in [REDACTED] and spent down on expenses shortly thereafter. (Conservator's testimony, Hearing Record)

9. As of [REDACTED], the balance in the conservatorship account was \$1,202.51. (Ex. 5: conservatorship account bank statement – [REDACTED] 2017 to [REDACTED] 2018)
10. As of [REDACTED], the only remaining asset in the Appellant's name that had not been liquidated and transferred into the conservatorship account was a [REDACTED] [REDACTED] Checking account, Acct # [REDACTED]. (Hearing Record)
11. On [REDACTED] 2018, the [REDACTED] Acct # [REDACTED] was closed out and the \$4,855.99 balance was moved to the conservatorship account. (Ex. 6: [REDACTED] Acct [REDACTED] Account Closing Summary, Customer Receipt and Transaction History)
12. The \$4,855.99 balance in Acct # [REDACTED], by itself, exceeded the Department's \$1,600.00 Medicaid asset limit, and the Appellant owned the asset until [REDACTED], which is the date the funds were transferred into the conservatorship account. (Hearing Record)
13. By [REDACTED], the Appellant's total assets were reduced to less than \$1,600.00. (Ms. Figueroa's testimony, Hearing Record).
14. On [REDACTED], the Department issued a NOA to the Appellant granting HUSKY C Medicaid beginning [REDACTED], but denying HUSKY C for the months of [REDACTED] to [REDACTED], inclusive, for the reason that the value of her assets was more the amount the Department allowed her to have in the denied months. (Ex. 4: NOA dated [REDACTED])
15. The denial of Medicaid for [REDACTED] to [REDACTED], inclusive, was based solely on the Appellant's ownership of assets that exceeded the limit in those months and had nothing to do with non-cooperation; the Appellant, through the actions of her Conservator and his law office, was cooperative throughout the application process. (Ms. Figueroa's testimony, Ex. 4, Hearing Record)
16. The issuance of this decision is timely under Connecticut General Statutes 17b-61(a), which requires that a decision be issued within 90 days of the request for an administrative hearing. The Appellant's Conservator requested an administrative hearing on [REDACTED]. Therefore, this decision is due not later than [REDACTED].

CONCLUSIONS OF LAW

1. Section 17b-260 of the Connecticut General Statutes provides for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.

2. Connecticut General Statutes § 17b-261 (c) defines an “available asset” for purposes of determining eligibility for the Medicaid program as “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.”

Uniform Policy Manual (“UPM”) § 4000.01 defines an “available asset” as “cash or any item of value which is actually available to the individual or which the individual has the legal right, authority or power to obtain, or to have applied for, his or her general or medical support”.

3. UPM § 4005.05(A) provides that “For every program administered by the Department, there is a definite asset limit”.

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:

- a. available to the unit; or
- b. deemed available to the unit.”

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”.

UPM § 4005.05(C) provides that “The Department does not count the assistance unit’s equity in an asset toward the asset limit if the asset is either:

1. excluded by state or federal law; or
2. not available to the unit.”

UPM § 4005.05(D) provides that:

1. The Department compares the assistance unit’s equity in counted assets with the program asset limit when determining whether the unit is eligible for benefits.
2. 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, unless the assistance unit is categorically eligible for the program and the asset limit requirement does not apply (cross reference: 2500 Categorical Eligibility Requirements).

UPM § 4005.10(A)(2)(a) provides that the asset limit for Medicaid for a needs group of one is \$1600.00.

The Department was correct when, on [REDACTED], it denied the Appellant’s application for HUSKY C Medicaid for the months of [REDACTED]

to [REDACTED], inclusive, for the reason that her assets exceeded the limit in each of the denied months. The Asset limit for the program was \$1,600.00 and the [REDACTED] [REDACTED] [REDACTED] Checking account in the Appellant's name that had a balance of \$4,855.99 until [REDACTED], by itself caused the Appellant's assets to exceed the \$1,600.00 limit in all months prior to [REDACTED]. The Department correctly treated the account as an available asset because the Appellant had the legal right and authority to obtain the asset.

DISCUSSION

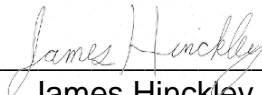
The Conservator noted that Department policy at UPM 3525.05(C) provides that penalties for noncooperation with the application process are not imposed when good cause exists due to circumstances beyond the assistance unit's control, and asked that the Appellant's appeal be considered in light of this provision.

The policy the Conservator cited is contained in the UPM chapter that discusses Procedural Eligibility Requirements. By way of example of a possible application of this policy, if an applicant was required to prove her age and did not do so by the deadline and her application was denied because of it, the application could be reopened without penalty if circumstances beyond the applicant's control prevented her compliance.

UPM 3525.05(C) has no bearing on the Appellant's case because the Appellant never received a penalty for noncooperation or noncompliance. Rather, her case was denied because she failed to meet an essential factor of eligibility in the denied months. In the example, while an applicant who had good cause could be extended additional time to meet a procedural requirement (proving her age), she still would not be eligible if, after doing so, she did not meet the age requirement.

DECISION

The Appellant's appeal is DENIED.



James Hinckley
Hearing Officer

cc: [REDACTED], Esq.
Musa Mohamud
Judy Williams
Jessica Carroll
Rachel Figueroa

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 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, 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 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.