

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

██████████ 2019
Signature Confirmation

Client ID # ██████████
Request # 143228

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2019, the Department of Social Services (the “Department”) sent ██████████ ██████████ (the “Appellant”) a Notice of Action (“NOA”) denying his application for benefits under the Husky C – Connecticut Home Care for Elders Program (“Husky C”) effective ██████████ 2019.

On ██████████ 2019, ██████████ (“AREP”), the authorized representative for the Appellant, requested an administrative hearing to contest the Department’s decision to deny such benefits.

On ██████████ 6, 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2019.

On ██████████ 2019, the AREP requested a continuance to correct the issue of the hearing. The OLCRAH granted the request for continuance.

On ██████████ 2019, the OLCRAH issued a notice scheduling the administrative hearing for ██████████ 2019.

On ██████████ 2019, the Department requested a continuance which OLCRAH granted.

On [REDACTED] 2019, the OLCRAH issued a notice scheduling the administrative hearing for [REDACTED], 2019.

On [REDACTED] 2019, 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], Authorized Representative for the Appellant
Stephen Percy, Department Representative
Pamela Adams, Department Representative
Felicia Andres, Department Onsite Chaperon
Elizabeth Spina, Department Onsite Chaperon
Lisa Nyren, Fair Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Appellant's application for benefits under the Husky C program was correct.

FINDINGS OF FACT

1. On [REDACTED] 2019, the Department received an application for Medicaid benefits under the Husky C program from the Appellant. The Appellant reports the following assets: [REDACTED] savings account ("savings account"), funeral contract, burial plot, and life insurance policy. (Hearing Record)
2. The Appellant is married to [REDACTED] the ("spouse"). (Hearing Record)
3. On [REDACTED] 2019, the Department issued the AREP a W-1348LTC Verification We Need (W-1348LTC) form requesting proof of assets including bank statements from the savings account and all other accounts, life insurance policies, burial plot, funeral contract information, and a copy of the Appellant's medical card from the Appellant. The Department listed the due date for the information as [REDACTED] 2019. (Exhibit 2: Case Notes and Exhibit 3: W-1348LTC Verification We Need)
4. On [REDACTED] 2019, the Department received some of the information requested from the Appellant, specifically the medical card and proof of burial plot. (Exhibit 2: Case Notes)

5. On [REDACTED] 2019, the Department issued the AREP a W-1348LTC form. The Department requested proof of assets including bank statements from the savings account and all other accounts, life insurance policies, and funeral contract information from the Appellant. The Department listed the due date for the information as [REDACTED] 2019. (Exhibit 2: Case Notes and Exhibit 3: W-1348LTC Verification We Need)
6. On [REDACTED] 2019, the Department received some of the information requested from the Appellant, specifically proof of life insurance and funeral contract and savings account statements. (Exhibit 2: Case Notes)
7. On [REDACTED] 2019, the Department issued the Appellant a W-1348LTC form. The Department requested proof of savings account bank transaction information and proof of any other accounts owned from the Appellant. The Department listed the due date for the information as [REDACTED] [REDACTED] 2019. (Exhibit 2: Case Notes and Exhibit 3: W-1348LTC Verification We Need)
8. On [REDACTED] 2019, the Department received a some of the information requested, specifically transaction explanation. (Exhibit 2: Case Notes)
9. On [REDACTED] 2019, the Department issued the Appellant a W-1348LTC form. The Department requested proof of savings account bank transaction information from the Appellant. The Department listed the due date for the information as [REDACTED] 2019. (Exhibit 2: Case Notes and Exhibit 3: W-1348LTC Verification We Need)
10. On [REDACTED] 2019, the Department received some of the requested information from the Appellant, specifically proof the spouse transferred money to [REDACTED] checking account ("checking account"). (Exhibit 2: Case Notes)
11. The spouse owns a joint checking account with [REDACTED] [REDACTED] ("daughter"), her daughter. The spouse electronically pays her monthly supplemental insurance premiums for herself and the Appellant from this account. The spouse receives a pension from [REDACTED] that is directly deposited into the checking account. (Exhibit 1: Letter [REDACTED]/19, Exhibit 2: Case Notes, Department Representative's Testimony, and AREP's Testimony)
12. On [REDACTED], 2019, the Department issued the Appellant a W-1348LTC form. The Department requested checking account statements from the Appellant. The Department listed the due date for the information as [REDACTED] [REDACTED], 2019. (Exhibit 2: Case Notes and Exhibit 3: W-1348LTC Verification We Need)

13. On [REDACTED] 2019, the Department issued the Appellant a W-1348LTC form. The Department requested proof of the following checking account transactions from the Appellant: proof of the source of a [REDACTED] 2017 deposit of \$6,000.00, proof of payee of checks [REDACTED], [REDACTED], and [REDACTED] dated [REDACTED] 2017 for \$2,000.00 each, proof of the source of a [REDACTED] 2017 deposit of \$2,370.00 and proof of payee of check [REDACTED] dated [REDACTED] 2017 for \$2,370.00. The Department listed the due date for the information as [REDACTED] 2019. (Exhibit 2: Case Notes and Exhibit 3: W-1348LTC Verification We Need)
14. On [REDACTED], 2019, the Department received a statement from the AREP indicating transaction documents requested were not for the spouse. (Exhibit 2: Case Notes)
15. On [REDACTED] 2019, the Department issued the Appellant a W-1348LTC form. The Department requested proof of the following checking account transactions from the Appellant: proof of the source of a [REDACTED] 2017 deposit of \$6,000.00, proof of payee of checks [REDACTED], and [REDACTED] dated [REDACTED] 2017 for \$2,000.00 each, proof of the source of a [REDACTED] 2017 deposit of \$2,370.00, proof of payee of check [REDACTED] dated [REDACTED] 2017 for \$2,370.00 and proof of newly opened bank account. The Department listed the due date for the information as [REDACTED] 2019. (Exhibit 2: Case Notes and Exhibit 3: W-1348LTC Verification We Need)
16. On [REDACTED] 2019, the Department received a letter from the AREP indicating transactions in question were not for the spouse. (Exhibit 2: Case Notes)
17. On [REDACTED] 2019, the Department issued the Appellant a W-1348LTC form. The Department requested proof of the following checking account transactions from the Appellant: proof of the source of a [REDACTED] 2017 deposit of \$6,000.00, proof of payee of checks [REDACTED], and [REDACTED] dated [REDACTED] 2017 for \$2,000.00 each, proof of the source of a [REDACTED] 2017 deposit of \$2,370.00, proof of payee of check [REDACTED] dated [REDACTED] 2019 for \$2,370.00 and proof of newly opened bank account. The Department listed the due date for the information as [REDACTED], 2019. (Exhibit 2: Case Notes and Exhibit 3: W-1348LTC Verification We Need)
18. On [REDACTED] 2019, the Department received a letter from the AREP. The AREP writes, "We have verified both income and expenses; please let us have your decision on both the Home Health Care Program and T19 one way or the other." (Exhibit 1: Letter [REDACTED])

19. On [REDACTED] 2019, the Department denied the Appellant's application for Husky C effective [REDACTED] 2019 because the Appellant failed to send in the requested asset information necessary to determine eligibility. (Exhibit 2: Case Notes and Department Representative's Testimony)
20. On [REDACTED] 2019, the Department issued the Appellant a Notice of Action. The notice stated the Appellant's application for Husky C benefits has been denied effective [REDACTED] 2019 for the following reasons: you did not return all of the required proofs by the date we asked and does not meet program requirements. (AREP's Testimony and Department Representative's Testimony)
21. The issuance of this decision is timely under Connecticut General Statute 17b-61(a), which requires that a decision be issued within 90 days of the request for an administrative hearing. The Appellant requested an administrative hearing on [REDACTED] 2019. However, the hearing which was originally scheduled for [REDACTED] 2019, was rescheduled for [REDACTED] 2019, at the request of the Appellant which caused a 7-day delay. Because this 7-day delay resulted from the Appellant's request, this decision is not due until [REDACTED] 2019, and therefore timely.

CONCLUSIONS OF LAW

1. Section 17b-2(6) of the Connecticut General Statutes ("Conn. Gen. Stats.") provides that the Department of Social Services is designated as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.
2. "The Department of Social Services shall be the sole agency to determine eligibility for assistance and services under programs operated and administered by said department." Conn. Gen. Stats. § 17b-261b(a)
3. "The department's uniform policy manual is the equivalent of a state regulation and, as such, carries the force of law." *Bucchere v. Rowe*, 43 Conn. Supp. 175, 178 (1994) (citing Conn. Gen. Stat, § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A.2d 712(1990))
4. "The application process is all activity related to the exploration, investigation and disposition of an application beginning with the filing of an assistance request and ending with the disposition of the application." Uniform Policy Manual ("UPM") § 1500.01

"The application process outlines the general methods and requirements used in obtaining assistance and in determining an assistance unit's initial

eligibility. The application process is essentially the same for all programs. It is designed to provide aid in a prompt and efficient manner to those who request assistance.” UPM § 1505

5. “The Department must inform the assistance unit regarding the eligibility requirements of the programs administered by the Department, and regarding the unit’s rights and responsibilities.” UPM § 1015.10(A)

“The Department must tell the assistance unit what the unit has to do to establish eligibility when the Department does not have sufficient information to make an eligibility determination.” UPM § 1015.05(C)

6. “The assistance unit must verify its equity in counted assets.” UPM § 4099.05(A)(1)

The assistance unit must verify the following for the Department to evaluate each asset held by the assistance unit. This list is not necessarily all-inclusive.

1. The asset’s legal owner, if there is a question of ownership, as described in 4010; and
2. The asset’s status as either inaccessible, or excluded, if there is a question, as described in 4015 and 4020, respectively; and
3. The amount of equity the assistance unit has in the asset; and
4. The amount of equity in counted assets to be deemed available to the unit, as described in 4025.

UPM § 4099.30(A)

“If the assistance unit is the record owner of an asset, the unit is considered the legal owner unless it establishes otherwise, with clear and convincing evidence.” UPM § 4010.05

“The assistance unit must verify that it has properly reduced its equity in counted assets to within the program’s limit.” UPM § 4099.05(B)(1)

“This chapter describes the technical eligibility requirement in the Medicaid program pertaining to the transfer of an asset for less than fair market value. The policy material in this chapter pertains to transfers that occur on or after February 8, 2006.” UPM § 3029

“The Department uses the policy contained in this chapter to evaluate asset transfers, including the establishment of certain trusts and annuities, if the transfer occurred, or the trust or annuity was established on or after February 8, 2006.” UPM § 3029.03

“The look-back date for transfers of assets is a date that is 60 months before the first date on which both the following conditions exist:

1. The individual is institutionalized; and
2. The individual is either applying for or receiving Medicaid.” UPM § 3029.05

7. The Department correctly issued the Appellant a W1348 Proofs We Need form requesting asset information needed to determine eligibility under the Husky C program.
8. “The assistance unit, but the act of applying for or receiving benefits, assumes certain responsibilities in its relations with the Department. This chapter describes those responsibilities which an assistance unit assumes when it applies for or receives benefits from the Department.” UPM § 1010
9. “The assistance unit must supply the Department, in an accurate and timely manner as defined by the Department, all pertinent information and verification which the Department requires to determine eligibility and calculated the amount of benefits (cross reference: 1555).” UPM § 1010.05(A)(1)

“The assistance unit must satisfy certain procedural requirements as described in Section 3500, including: taking steps as required by the Department to complete the eligibility determination.” UPM § 1010.05(C)(6)(a)

“As a condition of eligibility, members of the assistance unit are required to cooperate in the initial application process and in reviews, including those generated by reported changes, redeterminations and Quality Control. (Cross reference: Eligibility Process 1500)” UPM § 3525.05

“Applicants are responsible for cooperating with the Department in completing the application process by:

- a. Fully completing and signing the application form; and
- b. Responding to a scheduled appointment for an interview; and
- c. Providing and verifying information as required.”

UPM § 3525.05(A)(1)

10. “The applicants failure to provide required verification by the processing date causes: one or more members of the assistance unit to be ineligible if the unverified circumstance is a condition of eligibility.” UPM § 1505.40(B)(1)(c)(1)

“An application is denied when an applicant refuses to cooperate with the Department.” UPM § 3525.05(B)(1)(a)

“The following provisions apply if subsequent to an administrative delay the applicant becomes responsible for not completing the application process: for AFDC, AABD, and MA applications, the Department determines eligibility without further delay.” UPM § 1505.40(B)(3)(a)(1)

11. On [REDACTED] 2019, the Department correctly denied the Appellant’s application for medical benefits under the Husky C program effective [REDACTED] 2019 because the Appellant failed to provide the Department with the requested information necessary to make a determination of eligibility.
12. “The Department must send the assistance unit a notice regarding the Department’s determination of the unit’s initial eligibility, and, subject to conditions described in Section 1570, adequate notice before taking action to change the unit’s eligibility status or the amount of benefits.” UPM § 1015.10(C)
13. The Department correctly issued a notice of denial to the Appellant informing the Appellant the Department denied his application for medical benefits under the Husky C program effective [REDACTED] 2019.

DECISION

The Appellant’s appeal is denied.



Lisa A. Nyren
Fair Hearing Officer

CC: [REDACTED]
Rachel Anderson, DSS RO #20
Cheryl Stuart, DSS RO #20
Lisa Wells, DSS RO #20
Stephen Percy, DSS CO
Pamela Adams, DSS CO

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.