

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

██████████ 2019  
SIGNATURE CONFIRMATION

██████████  
Request # 143914

NOTICE OF DECISION

PARTY

██████████  
██████████  
██████████

PROCEDURAL BACKGROUND

On ██████████, the Department of Social Services (the "Department") issued a notice of action ("NOA") denying ██████████ (the "Appellant"), HUSKY C-Long Term Care Facility Coverage ("HUSKY C-LTC) benefits effective ██████████ 2019, due to excess assets.

On ██████████ 2019, the Appellant requested an administrative hearing due to the denial of her HUSKY C-LTC.

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

On ██████████, 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:

██████████, Appellant  
██████████, Appellant's Witness and daughter  
██████████, Appellant's Witness

██████████, Appellant's Witness  
 ██████████, Admissions, ██████████  
 Kenneth Smiley, Department's Representative via telephone  
 Carla Hardy, Hearing Officer

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether the Department correctly denied the HUSKY C-LTC.

### **FINDINGS OF FACT**

1. The Appellant is a resident of ██████████ located at ██████████, ██████████ CT ██████████. (Hearing Record)
2. The Appellant's date of birth is ██████████. She turned 65 on ██████████ 2019. (Appellant's Testimony)
3. Prior to ██████████, the Appellant was a recipient of the HUSKY D-Long Term Care Facility Coverage ("HUSKY D-LTC"). (Exhibit 4B: NOA, ██████████/19; Department's Testimony)
4. The HUSKY D-LTC does not have an asset limit for its program. (Department's Testimony)
5. On ██████████ 2019, the Department issued an NOA to the Appellant discontinuing the HUSKY D-LTC effective ██████████ 2019. The Appellant no longer met the program requirements. (Exhibit 4B)
6. The HUSKY D-LTC was discontinued because the Appellant turned 65. (Department's Testimony)
7. The Department's computer processing system, IMPACT automatically screened the Appellant for potential HUSKY C-LTC eligibility after the HUSKY D-LTC was discontinued. (Department's Testimony)
8. On ██████████ 2019, the Department reviewed the Appellant's Renewal Form that was received on ██████████ 2019. The Department sent the Appellant a request for proof of her bank account. The requested verification was due by ██████████ 2019. (Exhibit 5: Case Notes)
9. The Appellant receives a \$1,209.00 monthly Veteran's Administration ("VA") benefit. (Exhibit 1: ██████████, ██████████/19 - ██████████/19)

10. The Appellant receives a monthly international scholarship from [REDACTED] [REDACTED] [REDACTED]). She received \$2,112.92 on [REDACTED] 2019. (Exhibit 1; Exhibit 2: [REDACTED] Scholarship Agreement)
11. The [REDACTED] scholarship agreement provides for the following, "The amount of the scholarship shall be at the discretion of the Board of the Association and can be adjusted to artistic development. The scholarship is not intended for the maintenance of the Scholarship Holder but exclusively for artistic training, going to an art school or private training by a renowned artist, the purchase of painting material, literature etc...." (Exhibit 2)
12. The [REDACTED] scholarship is renewable every three years. The Appellant has received this scholarship for the past 16 years. (Appellant's Testimony)
13. The Appellant's monthly unearned income equals \$3,321.92 (\$1,209.00 VA + \$2,112.92 [REDACTED] = \$3,321.92)
14. The Appellant is a household of one. (Hearing Record)
15. The asset limit for the HUSKY C-LTC program for a household of one is \$1,600.00. (Department's Testimony)
16. On [REDACTED] 2019, the Department reviewed the Appellant's [REDACTED] checking statement. The Appellant's balance equaled \$21,008.14. She was determined to be over the asset limit for HUSKY C-LTC. The HUSKY C-LTC was denied. (Exhibit 1; Exhibit 4A: NOA, [REDACTED] 19; Exhibit 5)
17. 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 requested an administrative hearing on [REDACTED] [REDACTED] 2019. Therefore, this decision is due not later than [REDACTED] 2019, and is therefore timely.

### **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. "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)).
3. 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.

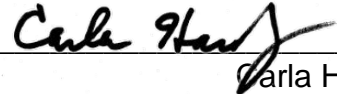
4. UPM § 4005.05(B)(2) provides that under all programs except Food Stamps, the Department considers an asset available when actually available to the individual or when the individual has the legal right, authority or power to obtain the asset, or to have it applied for, his or her general or medical support.
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.
6. UPM § 4005.10(A)(2)(a) provides that the asset limit for Medicaid for a needs group of one is \$1,600.00.
7. The Department correctly determined a needs group of one.
8. UPM § 4030 provides that the Department evaluates all types of assets available to the assistance unit when determining the unit's eligibility for benefits.
9. UPM § 4030.05 for the types of bank accounts.
  - A. Provides that bank accounts include the following. This list is not all inclusive.
    1. Savings account
    2. Checking account;
    3. Credit union account;
    4. Certificate of deposit;
    5. Patient account at long-term care facility;
    6. Children's school account;
    7. Trustee account;
    8. Custodial account.
  - B. The part of a checking account to be considered as a counted asset during a given month is calculated by subtracting the actual amount of income the assistance unit deposits into the account that month from the highest balance in the account for that month.
10. The Department correctly counted the balance in the Appellant's [REDACTED] checking account as an asset.
11. On [REDACTED], 2019, the balance in the Appellant's [REDACTED] checking account exceeded the \$1,600.00 asset limit.
12. On [REDACTED], 2019, the Department was correct to deny the Appellant's HUSKY C-LTC because her assets exceeded the \$1,600.00 asset limit.

**DISCUSSION**

Although the intention of the [REDACTED] scholarship is to cover the costs associated with artistic training and the purchase of art materials etc., the Department's policy is to count the balance in a checking account. It is not known if the Department deducted the Appellant's income from the highest balance in that month. Deducting the Appellant's income of \$3,321.92 from the highest balance of \$21,008.14 equals \$17,686.22 ( $\$21,008.14 - \$3,321.92 = \$17,686.22$ ) which exceeds the \$1,600.00 asset limit. The Department correctly denied the HUSKY C-LTC.

**DECISION**

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



Carla Hardy  
Hearing Officer

Pc: Tyler Nardine, Cheryl Stuart, Department of Social Services, Norwich Office  
Kenneth Smiley, Department of Social Services, Willimantic 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.