

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 # 147720

NOTICE OF DECISION

PARTY

██████████
██████████
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PROCEDURAL BACKGROUND

On ██████████ 2019, the Department of Social Services (the “Department”) sent ██████████ (the “Appellant”) a Notice of Action (“NOA) denying her application for Medicaid benefits under the Husky C – Individual Receiving Home and Community Based Services Program (“Husky C”) effective ██████████ 2019.

On ██████████ 2019, the Appellant requested an administrative hearing to contest the Department’s decision to deny such benefits.

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 Son and Authorized Representative
Anthony Gulino, Department Representative, participated by telephone
Kenneth Smiley, Department Chaperone
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 Medicaid benefits under the Husky C effective [REDACTED] 2019 was correct.

FINDINGS OF FACT

1. On [REDACTED] 2019, the Department received an application for Medicaid under the Individuals Receiving Home and Community Based Services program ("Husky C") from the Appellant requesting medical benefits for herself. (Hearing Record)
2. The Appellant owns a checking account with [REDACTED] ("checking account") where her social security benefits of \$1,638.00 are direct deposited each month. (Exhibit 6: Bank Statement, AREP Testimony, and Appellant Testimony)
3. The checking account transaction history for statement date [REDACTED] 2019 period [REDACTED] 2019 through [REDACTED], 2019 lists beginning balance as \$172.29, ending balance as \$598.76, highest balance for the period as \$1,709.74, and total deposits as \$1,638.00. (Exhibit 6: Bank Statement)
4. The Appellant owns a savings account with [REDACTED] ("savings account"). The savings account transaction history for statement date [REDACTED] 2019, period [REDACTED] 2019 through [REDACTED] 2019 lists beginning balance as \$1,006.27, total deposits \$102.01, and ending balance as \$1,108.28. (Exhibit 6: Bank Statement and Appellant's Testimony)
5. The asset limit under the Husky C is \$1,600.00. (Department Representative Testimony)
6. The Department determined the counted value of the checking account as \$598.00. (Department Representative Testimony, Exhibit 3: Case Notes, and Exhibit 4: Notice of Action)
7. The Department determined the counted value of the savings account as \$1,006.27. (Department Representative Testimony, Exhibit 3: Case Notices, and Exhibit 4: Notice of Action)
8. The Department determined the Appellant's total counted assets as \$1,604.27. (\$598.00 checking account value + \$1,006.27 savings account value = \$1,604.27) (Hearing Record)

9. The Department determined the Appellant's total counted assets of \$1,604.27 exceed the Medicaid asset limit of \$1,600.00 and denied the Appellant's request for medical assistance under the Husky C program effective [REDACTED] 2019. (Hearing Record)
10. On [REDACTED], 2019, the Department issued the Appellant a notice of action. The notice stated the Department denied the Appellant's application for the Husky C program effective [REDACTED] 2019 for the reasons: the value of your assets is more than the amount we allow you to have and does not meet program requirements. (Exhibit 4: Notice of Action)
11. On [REDACTED] 2019, the Appellant reapplied for the Husky C program. (Hearing Record)
12. 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] 2019. Therefore, this decision is due not later than [REDACTED], 2020.

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statute ("Conn. Gen. Stat.") provides as follows: "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. Stat. § 17b-261b
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. Section 4005 of the Uniform Policy Manual ("UPM") provides as follows:

For every program administered by the Department, there is a definite asset limit. This chapter outlines which assets are counted toward the asset limit and which assets are not counted. The chapter also specifies the asset limits for the four major programs which the Department administers, and describes how assets exceeding the program limit affect eligibility.

5. "For every program administered by the Department, there is a definite asset limit." UPM § 4005.05(A)
6. "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)(1)
7. "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(B)(2)
8. Department policy in part provides as follows:

The Department evaluates all types of assets available to the assistance unit when determining the unit's eligibility for benefits. This chapter describes some of the assets which an assistance unit may own, and describes how ownership of the asset affects the unit's eligibility under the various programs the Department administers. The assets specifically described are: Bank Accounts.

UPM § 4030

9. "Bank accounts include the following. This list is not all inclusive. Checking account." UPM 4030.05(A)(2)
10. "That 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." UPM 4030.05(B)
11. The Department correctly determined the checking account a counted asset under the Husky C.
12. The Department incorrectly determined the Appellant's equity in the checking account as \$598.00. The correct value is \$71.74. (\$1,709.74 highest balance for month - \$1,638.00 total deposits for month = \$71.74)
13. "Bank accounts include the following. This list is not all inclusive. Savings account." UPM § 4030.05(A)(1)
14. The Department correctly determined the savings account a counted asset under the Husky C.

15. The Department incorrectly determined the Appellant's equity in the savings account as \$1,006.27. The correct value of the savings account is \$1,108.28.
16. Department policy provides in part: The asset limits for the Department's programs are as follows: Under the AABD and MAABD – Categorically and Medically Needy: "The asset limit is \$1,600.00 for a needs group of one." UPM § 4005.10(A)(2)(a)
17. The Department correctly determined the asset limit under Husky C as \$1,600.00.
18. "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." UPM § 4005.05(D)(1)
19. The Department incorrectly determined the Appellant's total equity in countable assets as \$1,604.27. The correct value of the Appellant's total assets is \$1,180.02. (\$71.74 checking account + \$1,108.28 = \$1,180.02)
20. "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 § 4005.05(D)(2)
21. The Department incorrectly determined the Appellant's total equity in countable assets exceed the Husky C asset limit of \$1,600.00.
22. On [REDACTED], 2019, the Department incorrectly denied the Appellant's application for Husky C effective [REDACTED] 2019.

DECISION

The Appellant's appeal is GRANTED.

ORDER

1. The Department must rescind the [REDACTED] 2019 notice of action denying the Appellant's application for Husky C due to excess assets.

2. The Department must reopen the Appellant's application for Husky C effective [REDACTED] 2019 and continue to process eligibility under the Husky C program.
3. The Department must correctly calculate the value of the Appellant's checking account. Refer to Conclusion of Law ("COL") # 9, #10 and # 12.
4. The Department must correctly calculate the value of the Appellant's savings account. Refer to COL #13 and #15.
5. Compliance with this decision is due by [REDACTED], 2019.



Lisa A. Nyren
Fair Hearing Officer

CC: Musa Mohamud, DSS, RO 10
Judy Williams, DSS, RO 10
Jessica Carroll, DSS RO 10
Jay Bartolomei, DSS RO 10
Tony Cook-Beckford, DSS RO 42
Anthony Gulino, DSS, RO 10
Hearings.commops@ct.gov

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.