

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 # 142478

NOTICE OF DECISION

PARTY

██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2019, the Department of Social Services (the "Department") issued a notice of action ("NOA") discontinuing ██████████ (the "Appellant"), HUSKY C-Home and Community Based Services program effective ██████████ 2019, due to excess assets.

On ██████████ 2019, the Appellant requested an administrative hearing due to the discontinuance of her HCBS.

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
Jessica Gomez, Department's Observer
Noel Lord, Department's Representative via telephone
Carla Hardy, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly discontinued the Appellant's HCBS.

FINDINGS OF FACT

1. Prior to [REDACTED], 2019, the Appellant was a recipient of the HCBS program. (Hearing Record)
2. On [REDACTED], 2019, the Appellant submitted her renewal form to the Department. (Hearing Summary)
3. On [REDACTED], 2019, the Department reviewed the Appellant's renewal form. The Appellant reported several assets that included a bank account and life insurance policies. The Department requested additional verification from the Appellant that included proof of her earnings, the balance in her [REDACTED] checking account ending in [REDACTED], and proof of the cash surrender value for her [REDACTED] [REDACTED] policies ending in [REDACTED] and [REDACTED]. (Exhibit F: Proofs We Need, [REDACTED]/19; Exhibit H: Case Notes)
4. The asset limit for a household of one is \$1,600.00. (Department's Testimony)
5. The Appellant receives \$1,441.00 per month in Social Security ("SSA") income which is directly deposited to her [REDACTED] bank account. (Exhibit E: [REDACTED] Bank Statements)
6. The Appellant is employed and works for [REDACTED]. She supplied the Department with the following biweekly paystubs:

Pay Dates	Amounts
[REDACTED] 19	\$88.88
[REDACTED] 9	88.88
[REDACTED] 9	88.88

(Exhibit C: Pay Stubs)

7. The Department did not count the balance in the [REDACTED] checking account toward the asset limit. They "zeroed out" the SSA from her bank balance. (Department's Testimony)
8. On [REDACTED], 2019, the Appellant owned the following life insurance policies:

NAME	ACCOUNT #	FACE VALUE	CASH VALUE
[REDACTED]	[REDACTED]	\$10,000.00	\$338.34

Globe Life		10,000.00	241.34
		2,500.00	908.79
		778.00	163.05
		1,000.00	208.49
TOTAL		\$24,278.00	\$1,860.01

(Exhibit J: Life Insurance Summary; Appellant's Exhibit 4: [REDACTED] Policy # [REDACTED])

9. On [REDACTED], 2019, the face value of the Appellant's life insurance policies totaled \$24,278.00. (Exhibit J; Exhibit 4)
10. On [REDACTED], 2019, the Department determined the Appellant's assets totaled \$1,651.52. ($\$338.34 + \$241.34 + \$908.79 + \$163.05 = \$1,651.52$) and that her assets derived from the cash surrender value of her life insurance policies. (Exhibit J; Department's Testimony; Hearing Summary)
11. The Department did not include the \$208.49 cash surrender value of the [REDACTED] policy ending [REDACTED] as part of the Appellant's assets. (Exhibit J)
12. On [REDACTED], 2019, the Department processed the Appellant's renewal form discontinued the Appellant's W01 effective [REDACTED] 2019, because the value of her assets exceeded the program limit. (Exhibit G: NOA, [REDACTED]/19; Exhibit H)
13. On the date of this hearing, the Appellant provided verification that on [REDACTED] 2019, she transferred ownership of the [REDACTED] policies [REDACTED] and [REDACTED] to [REDACTED]. (Appellant's Exhibit 6: Letter from [REDACTED]; Appellant's Exhibit 8: Letter from [REDACTED])
14. On the date of this hearing, the Appellant provided verification that on [REDACTED] 2019, she surrendered the [REDACTED] policy ending [REDACTED] for \$166.61. (Appellant's Exhibit 3: [REDACTED] Policy [REDACTED])
15. On the date of this hearing, the Appellant provided verification that on [REDACTED], 2019, she surrendered the [REDACTED] policy ending [REDACTED] for \$208.49. The policy had a face value of \$1,000.00. (Appellant's Exhibit 4: [REDACTED] Policy # [REDACTED])
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 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. 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.
3. UPM § 4030 provides that the Department evaluates all types of assets available to the assistance unit when determining the unit's eligibility for benefits.
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. UPM § 4030.30 (C) provides for the treatment of life insurance policies under the AABD and MAABD programs.
 1. If the face value of all life insurance policies owned by the individual does not exceed \$1,500.00, the cash surrender value of such policies is excluded. In computing the face value of life insurance, the Department does not count insurance such as term insurance which has no cash surrender value.
 2. Except as provided above, the cash surrender value of life insurance policies owned by the individual is counted towards the asset limit.
8. Connecticut General Statute CGS § 17b-261(h) provides to the extent permissible under federal law, an institutionalized individual, as defined in Section 1917 of the Social Security Act, 42 USC 1396p(h)(3), shall not be determined ineligible for Medicaid solely on the basis of the cash value of a life insurance policy worth less than ten thousand dollars provided the individual is pursuing the surrender of the policy.
9. On [REDACTED] 2019, the face value of the Appellant's life insurance policies exceeded \$10,000.00 and the cash surrender values exceeded the \$1,600.00 asset limit.

10. On [REDACTED] 2019, the Department was correct to discontinue the Appellant's HCBS because her assets exceeded the \$1,600.00 asset limit.
11. UPM § 1555.35 (C)(1)(a)(1) provides that changes resulting in increased benefits are considered in the month the change occurs, provided that the change is reported and verified in a timely manner.
12. On [REDACTED], 2019, the Appellant provided verification that she surrendered two life insurance policies on [REDACTED], 2019.

DISCUSSION

The Department provided evidence showing the Appellant was over the \$1,600.00 asset limit when they took action to discontinue her case on [REDACTED] 2019. The Appellant provided evidence at the hearing indicating that she has surrendered two policies and may now be within the asset limit. As of the date of the hearing, the Department had not had a chance to review the new evidence provided by the Appellant.

DECISION

The Appellant's appeal is **DENIED** in part and **GRANTED** in part. The appeal is denied because the Appellant was over the asset limit when the Department took action to discontinue her case on [REDACTED], 2019. The appeal is granted because the Appellant submitted evidence in a timely manner which may affect her eligibility.

ORDER

1. The Department shall review the Appellant's life insurance policy surrenders that she submitted at the administrative hearing and re-issue an eligibility determination.
2. Compliance with this order shall be forwarded to the undersigned no later than [REDACTED] 2019.



Carla Hardy
Hearing Officer

Pc: Fred Presnick, Yecenia Acosta, Tim Latifi, Department of Social Services,
Bridgeport Office
Noel Lord, Department of Social Services, Stamford 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.