

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

██████████ 2020  
Signature Confirmation

Client ID # ██████████  
Case ID ██████████  
Request # 150534

**NOTICE OF DECISION**

**PARTY**

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

**PROCEDURAL BACKGROUND**

On ██████████ 2019, the Department of Social Services (the “Department”) sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) denying her application for benefits under the Husky C – Long Term Care (“LTC”) Facility Residents Medicaid Program (“Husky C”) effective ██████████ 2019.

On ██████████ 2019, ██████████ (“fiduciary”), ██████████ ██████████ on behalf of 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 ██████████ 2020.

On ██████████ 2020, the fiduciary requested a continuance which OLCRAH granted.

On ██████████ 2020, the OLCRAH issued a notice scheduling the administrative hearing for ██████████ 2020.

On ██████████ 2020, the fiduciary requested a continuance which OLCRAH granted.

On [REDACTED] 2020, the OLCRAH issued a notice scheduling the administrative hearing for [REDACTED] 2020.

On [REDACTED] 2020, the OLCRAH issued a corrected notice scheduling the administrative hearing for [REDACTED] 2020.

On [REDACTED] 2020, 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]  
[REDACTED]  
[REDACTED]

Adam Silverman, Department Representative  
Rose Montinat, Host Office  
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 under the Husky C program effective [REDACTED], 2019 was correct.

**FINDINGS OF FACT**

1. On [REDACTED] 2018, [REDACTED] (“nursing facility”), a long term care nursing facility, admitted the Appellant to their facility. (Nursing Facility Representative’s Testimony and Exhibit 1: W-1LTC Application)
2. On [REDACTED] 2019, the [REDACTED] Probate Court appointed [REDACTED] [REDACTED] (“Conservator of the Estate”) as the Appellant’s Conservator of the Estate after removing [REDACTED] as the Appellant’s former Conservator of the Person and Estate for failing to fulfill her fiduciary responsibilities. (Exhibit 1: W-1LTC Application, Exhibit 2: Fiduciary’s Probate Certificate/Conservatorship, and Exhibit A-5: Court of Probate)
3. On [REDACTED] 2019, the Conservator of the Estate on behalf of the Appellant submitted an application for Medicaid under the Husky C LTC program. The application lists the Conservator of the Estate as the Appellant’s authorized representative. The application lists two bank accounts: [REDACTED]

- (“checking account [REDACTED]”) and [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] (“checking account [REDACTED]”). The application lists the Appellant retains ownership in home property located in [REDACTED] (“home property”). (Exhibit 1: W-1LTC Application and Exhibit 3: W1348LTC Request #8)
4. On [REDACTED] 2019, the Conservator submitted proof life insurance account [REDACTED] was surrendered on [REDACTED] 2018. (Exhibit A-4: Life Insurance Policies)
  5. On [REDACTED] 2019, the Conservator submitted proof life insurance account [REDACTED] was surrendered on [REDACTED] 2018. (Exhibit A-4: Life Insurance Policies)
  6. On [REDACTED] 2019, the Conservator submitted a bank receipt for bank account [REDACTED] confirming the closure of bank account [REDACTED] effective [REDACTED] [REDACTED] 2019. (Exhibit A-4: Banking Documents)
  7. On [REDACTED] 2019, the Conservator submitted bank account [REDACTED] transaction history from [REDACTED] 2019 to [REDACTED] 2019. (Exhibit A-4: Banking Documents)
  8. On [REDACTED] 2019, the Conservator submitted bank account [REDACTED] statement for the period [REDACTED] 2019 through [REDACTED] 2019. (Exhibit A-4: Banking Documents)
  9. On [REDACTED] 2019, the Conservator provided bank account [REDACTED] statements for [REDACTED] 2017 to [REDACTED] 2017 confirming account closed on [REDACTED] 2017. (Exhibit A-4 Banking Documents)
  10. On [REDACTED] 2019, the Department issued form W-1348LTC We Need Verification From You (“W-1348LTC”) listing outstanding verification needed to process the application for Husky C. The Department writes, “the items listed below are needed to process your application for Title XIX, Long Term Care or Home Care Services. At least one item on the list must be provided by the deadline shown above. You only need to give us information for the items listed below.” The Department listed the due date for the requested information as [REDACTED], 2019. The Department requested the following information:
    - Copy of Probate Accounting submitted at time of appointment
    - [REDACTED] (“bank account [REDACTED]”) from [REDACTED] 2019 to current date
    - [REDACTED] account ending in [REDACTED] (“bank account [REDACTED]”) statements from [REDACTED] 2019 to [REDACTED] 2019 and [REDACTED] 2019 to current/closing date

- [REDACTED] account ending in [REDACTED] (“bank account [REDACTED]”) statements from [REDACTED] 2017 to [REDACTED] 2017
- [REDACTED] account ending in [REDACTED] (“bank account [REDACTED]”) statements from [REDACTED] 2017 to closure [REDACTED] 2017
- Proof date stocks/shares cashed out/tax return documentation
- [REDACTED] (“life insurance”) accounts [REDACTED] (“[REDACTED]”) and [REDACTED] (“[REDACTED]”) surrendered
- Sales contract for property located in [REDACTED] as contract expires on [REDACTED], 2019
- Proof total combined assets are below \$1,600.00 Title 19 asset limit and verification of how funds were spent.

(Exhibit 3: W1348LTC Request #8 and Exhibit 4: Case Notes)

11. On [REDACTED], 2019, the Department denied the Appellant’s application for Husky C because the Department did not receive any of the requested documentation listed on the W-1348LTC form. (Hearing Record)
12. On [REDACTED], 2019, the Department issued the Appellant a notice of action. The notice stated the Department denied the Appellant’s application for Husky C effective [REDACTED] 2019 for the reasons: “you did not return all of the required proofs by the date we asked and does not meet program requirements.” (Exhibit 5: Notice of Action)
13. 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 fiduciary on behalf of the Appellant requested an administrative hearing on [REDACTED] 2019. However, the hearing, which was originally scheduled for [REDACTED] 2020, was rescheduled on several occasions at the request of the fiduciary, which caused a [REDACTED] day delay. Because this [REDACTED] day delay resulted from the fiduciary’s request, this decision is not due until [REDACTED] 2020, and therefore timely.

### **CONCLUSIONS OF LAW**

1. Section 17b-2(6) of the Connecticut General Statute (“Conn. Gen. Stat.”) 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 the Department.” Conn. Gen. Stat. § 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 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." Uniform Policy Manual ("UPM") § 1505
5. "Individuals who desire to obtain aid must file a formal request for assistance." UPM 1505.10(B)(1)
 

"The formal request must be made in writing on the application form." UPM § 1505.10(B)(2)

"The following individuals are qualified to request cash or medical assistance, be interviewed and, complete the application process on the behalf of others who they represent: a conservator, guardian or other court appointed fiduciary." UPM § 1505.15(C)(1)(a)(3)
6. The Department correctly determined the Conservator qualified to submit an application for Medicaid under the Husky C program on behalf of the Appellant.
7. "For AFDC, AABD and MA applications, except for the Medicaid coverage groups noted below in 1510.10D.2, the date of application is considered to be the date that assigned application form is received by any office of the Department." UPM § 1505.10(D)(1)
8. The Department correctly determined the date of application as [REDACTED] 2019.
9. "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)
10. On [REDACTED] 2019, the Department correctly issued the Conservator a W-1348LTC requesting information needed to establish Medicaid eligibility for the Appellant.

11. Department policy provides as follows:

Regardless of the standard of promptness, no eligibility determination is made when there is insufficient verification to determine eligibility when the following has occurred:

1. The Department has requested verification; and
2. At least one item of verification has been submitted by the assistance unit within a time period designated by the Department, but more is needed.

UPM § 1505.40(B)(5)(a)

12. "Additional 10 day extensions for submitting verification shall be granted, as long as one item of verification is submitted by the assistance unit within each extension period." UPM § 1505.40(B)(5)(b)

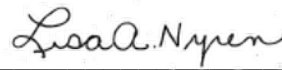
13. The Department incorrectly denied the Appellant's application for Medicaid under the Husky C LTC program because at least one item of verification was submitted by the Conservator on behalf of the Appellant prior to the [REDACTED] 2019 due date. On [REDACTED] 2019, the Conservator submitted proof the life insurance accounts [REDACTED] and [REDACTED] were surrendered. On [REDACTED] 2019, the Conservator submitted proof bank account [REDACTED] closed. On [REDACTED], 2019, the Conservator submitted the [REDACTED] 2019 through [REDACTED] 2019 bank statement for bank account [REDACTED]. On [REDACTED] 2019, the Conservator submitted a transaction history bank document for period [REDACTED] 2019 to [REDACTED] 2019 for bank account [REDACTED]. On [REDACTED] 2019, the Conservator submitted the [REDACTED], 2017 to [REDACTED] 2017 for bank account [REDACTED] proving the account closed on [REDACTED], 2017.

### DECISION

The Appellant's appeal is granted.

**ORDER**

1. The Department must reopen the Appellant's application for Husky C effective [REDACTED] 2019 and continue to process eligibility.
2. The Department must issue a W1348LTC for any outstanding verification necessary to determined eligibility under the Husky C program and allow a minimum of 10 days for the submission of outstanding verification.
3. Compliance is due 14 days from the date of the decision.



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Lisa A. Nyren  
Fair Hearing Officer

CC: Peter Bucknall, DSS Waterbury  
Jamel Hilliard, DSS Waterbury  
Adam Silverman, DSS Waterbury

[REDACTED]

### **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.