

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

██████████ 2020
SIGNATURE CONFIRMATION

Case ID# ██████████
Client ID# ██████████
Request# 153311

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

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

Re: ██████████

PROCEDURAL BACKGROUND

On ██████████, 2020, the Department of Social Services (the "Department") sent a notice of action ("NOA") to ██████████ (the "Appellant"), denying her application for medical assistance under the Medicaid HUSKY C-Long Term Care Facility Coverage ("HUSKY C-LTC" benefits due to excess assets.

On ██████████ 2020, ██████████, the Applicant's Authorized Representative ("AREP"), requested an administrative hearing to contest the Department's decision to deny the Applicant's application for HUSKY C-LTC.

On ██████████, 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████ 2020.

On [REDACTED], 2020, the AREP's Attorney requested a reschedule to obtain conservatorship. OLCRAH approved the request and issued a notice rescheduling the administrative hearing for [REDACTED], 2020.

On [REDACTED], 2020, the AREP's Attorney requested another reschedule. OLCRAH approved the request and on [REDACTED] 2020, issued a notice rescheduling the administrative hearing for [REDACTED], 2020.

On [REDACTED], 2020, the AREP's Attorney requested another reschedule. OLCRAH approved the request and on [REDACTED] 2020, issued another notice rescheduling 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 a telephonic administrative hearing.

The following individuals were present at the hearing:

[REDACTED], Director of [REDACTED], Appellant's AREP
 [REDACTED], Attorney for [REDACTED]
 Stacey Carrier, Department Representative
 Swati Sehgal, Hearing Officer

The Appellant was not present at the administrative hearing due to her passing on [REDACTED] 2020.

STATEMENT OF THE ISSUE

The issue is whether the Department correctly denied the Appellant's application for HUSKY C-LTC.

FINDINGS OF FACT

1. On [REDACTED], 2019, the Appellant was admitted to [REDACTED]. (Hearing Summary; Department's Testimony)
2. On [REDACTED], 2019, the Department received the Appellant's application for medical assistance under the Medicaid Husky C-LTC program. (Hearing Summary; Department's Testimony)
3. The Department sent to the Appellant and her son, also her Power of Attorney ("POA") a total of four W-1348 LTC We Need Verification Form You requests for information needed for the pending Medicaid application. (Department's Testimony, Hearing Record)

4. On [REDACTED] 2020, the Department sent to the POA and the Appellant a W-1348 LTC request #4 Verification We Need Form, requesting proof of the current face value and cash surrender value of the Life Insurance Policy from [REDACTED]. The information was due by [REDACTED] 2020. (Exhibit 7, 7.1: W-1348 LTC dated [REDACTED], 2020; Department's Testimony)
5. On [REDACTED], 2020, the Department received a copy of the Life Insurance Policy detail verifying the face value of \$50,000.00 and Cash surrender value of \$8001.99. The Department also received a statement from the POA stating that he is planning to purchase the life insurance policy and transferring the proceeds to a funeral contract. (Exhibit 9: Policy Details of Life Insurance Policy and POA's statement)
6. On [REDACTED] 2020, the Department reviewed the information received from the POA and determined that the Life Insurance Policy surrender value of \$8,001.99 was over the asset limit. (Exhibit 9: Policy Details of Life Insurance Policy, Hearing Summary; Department's Testimony)
7. On [REDACTED], 2020, the Department sent to the Appellant and her POA a Notice of Action denying the application for Husky C- Long Term Care Facility Medicaid because the value of assets is more than the amount we allow you to have. (Exhibit 10: Notice of Action dated [REDACTED] 2020; Hearing Summary)
8. On [REDACTED], 2020, the Applicant passed. (AREP's Attorney's Testimony)
9. The LTCF Medicaid program asset limit is \$1,600.00. (Department's testimony; Hearing Record)

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. UPM § 4005.05(C) provides that "the Department does not count the assistance unit's equity in an asset toward the asset limit if the asset is either: excluded by state or federal law; or not available to the unit.
4. Connecticut General Statutes 17b-261(h) provides to the extent permissible under federal law, an institutionalized individual, as defined in section 1917 of the Social

Security Act 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

The Department received a copy of the Life Insurance Policy detail verifying the cash surrender value being less than \$10,000.00. The Department also received a statement from the POA stating their plan to transfer the proceeds from Life Insurance Policy to a funeral contract. Information was received within the time allotted by the Department.

5. UPM § 1015.10(A) provides that 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.
6. UPM § 1505.40(B)(5)(a) provides that for delays due to insufficient verification, 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.
7. UPM § 1505.40(B)(5)(b) provides that additional 10 day extensions for submitting verification shall be granted as long as after each subsequent request for verification at least one item of verification is submitted by the assistance unit within each extension.

The Department failed to notify the Appellant and her POA about additional information it needed to process the application after it has received verification of detail of the Life Insurance Policy and cash surrender amount.

The Department incorrectly determined that the Appellant was not eligible for medical assistance under the Husky C-LTC program because her countable assets were not reduced below the \$1,600.00 program asset limit.

The Department incorrectly denied the Applicant's Husky C-LTC application.

DISCUSSION


The Department received a statement from the POA on [REDACTED], 2020, stating that he is planning to cash the Appellant's Life Insurance Policy and transfer the proceeds to a Funeral Contract for her, he also sent the verification of cash surrender value of the Life Insurance Policy. The cash surrender value is less than ten thousand dollars and based on the State statutes the institutionalized individual 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. The Department's stand is that the Appellant did not provide any evidence verifying the transfer of Life Insurance policy to funeral contract, however, the Department failed to request that information.

DECISION

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

ORDER

1. The Department will consider the cash surrender value of the Appellant's Life Insurance Policy [REDACTED] excluded and provided all other eligibility factors are met, grant Long Term Care Medicaid as of the application date.
2. Compliance with this order will be due by [REDACTED], 2020.


Swati Sehgal
Hearing Officer

CC: Musa Mohamad, Operations Manager, DSS R.O.# 10, Hartford
Judy William, Operation Manager, DSS R.O. #10, Hartford
Jessica Carroll, Operation Manager, DSS R.O. #10, Hartford
Jay Bartolomei, Fair Hearing Liaison Supervisor, DSS R.O. #10, Hartford
Stacy Carrier, Fair Hearing Liaison, DSS R.O. #10, Hartford

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.