

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#: 153138

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

Re: ██████████

PROCEDURAL BACKGROUND

On ██████████, 2020, the Department of Social Services (the "Department") sent a notice of action ("NOA") to ██████████ (the "Applicant"), 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 Power of Attorney, ("POA") and Daughter, ██████████ ██████████ i (the "POA"), 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 ██████████, 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:

██████████, Applicant's POA, and Daughter
 Ilirjana Sabani, Department Representative
 Shelley Starr, Hearing Officer

The Applicant was not present at the administrative hearing due to her passing on ██████████ 2020.

STATEMENT OF THE ISSUE

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

FINDINGS OF FACT

1. On ██████████, 2019, the Applicant was admitted to ██████████, ██████████ (the "Facility") for long term care. (Hearing Summary; POA's Testimony)
2. The Applicant was ██████ years old (██████████), widowed, with a primary medical diagnosis of dementia. (Hearing Summary; POA's Testimony)
3. On ██████████, 2019, the Department received the Applicant's application for medical assistance under the Medicaid Husky C-LTC program. (Hearing Summary; Department's Testimony)
4. The Department communicated with the Applicant's POA primarily via Email correspondence. (Department's Testimony; Hearing Record)
5. The Department sent to the Applicant's POA a total of four (4) W-1348 LTC We Need Verification From You requests for information needed for the pending Medicaid application. (Department's Testimony, Hearing Record)
6. On ██████████ 2020, the Applicant passed. (Hearing Record; POA's Testimony)
7. On ██████████ 2020, the Department sent to the POA a W-1348 LTC request # 4 We Need Verification From You, requesting a ██████████ letter verifying when CD ██████████ closed; ██████████ bank statements for ██████████ for ██████████ 9 to date or up until account closed; completed sections of the W-1 LTC application, and the current gross ██████████ pension. The information was due by ██████████ 2020. The notice indicated "There is no eligibility for Title 19 in any month in which total assets exceed \$1,600.00. You must verify that your total assets are below \$1,600.00 and how funds are spent to reduce assets below the allowable limit. Please provide copies of bills, receipts or canceled checks. The notice further indicated only months that assets are under \$1,600.00 will be considered for

possible eligibility of payment.” (Exhibit 3: W-1348 LTC dated [REDACTED] 2020; Department’s Testimony)

8. On [REDACTED], 2020, the Department reviewed the information received from the POA and determined that based on the Applicant’s [REDACTED] checking account # [REDACTED], the Applicant was over the asset limit. (Exhibit 5: [REDACTED] bank Statements; Hearing Summary; Department’s Testimony)
9. On [REDACTED] 2020, the Department sent to the 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 1: Notice of Action dated [REDACTED], 2020; Hearing Summary)
10. [REDACTED] 2020, the Department received from the Applicant’s POA a [REDACTED] statement for account [REDACTED] for the period of [REDACTED], 2019, through [REDACTED] 2020. (Hearing Summary; Exhibit 5: [REDACTED] bank statement received [REDACTED], 2020)
11. On [REDACTED], 2020, the Department determined that the Applicant was asset eligible for the month of [REDACTED] 2020, as the POA issued a \$1,000.00 payment (check # [REDACTED] on [REDACTED], 2020. The Department subtracted the \$1,000.00 from the [REDACTED] 2020, available balance of \$1,954.37. The Department determined that the Applicant was under the \$1,600.00 asset limit in the month of [REDACTED] 2020, ($\$1,954.37 - \$1,000.00 = \$954.37$) and re-opened the LTCF application. The Department granted LTCF Medicaid for the month of [REDACTED] 2020; the first month in which assets were reduced. (Hearing Summary; Exhibit 1: Notice of Action dated [REDACTED] 2020)
12. On [REDACTED], 2020, the Department sent the POA a Notice of Action approving LTCF Medicaid for the month of [REDACTED] 2020, and denying the application for the months of [REDACTED] 2019 and [REDACTED] 2019 because the value of the assets exceeded the program asset limit. (Hearing Summary; Exhibit 1: Notice of Action dated [REDACTED] 2020)
13. The LTCF Medicaid program asset limit is \$1,600.00. (Department’s testimony; Hearing Record)
14. The Department determined the Applicant’s countable assets based solely on the Applicant’s accessible and countable [REDACTED] checking account [REDACTED] (Testimony; POA’s Testimony)

15. The POA does not dispute that the Applicant's assets were not reduced below the \$1,600.00 asset limit before [REDACTED] of 2020. (Hearing Record; POA's Testimony)
16. At the time of the hearing, the Applicant owes the nursing facility approximately \$7,274.00. (POA's Testimony; Hearing Record)
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] 2020. This decision is due not later than [REDACTED] 2020, 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. Connecticut General Statutes § 17-b 261 (c) defines an "available asset" for purposes of determining eligibility for the Medicaid program as "one that is actually available to the applicant or one that the applicant has the legal right, authority or power to obtain or to have applied for the applicant's general or medical support."

Uniform Policy Manual ("UPM") § 4000.01 defines an "available asset" as "cash or any item of value which is actually available to the individual or which the individual has the legal right, authority or power to obtain, or the have applied for, his or her general or medical support.

4. 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.
5. 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.
6. 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.

7. UPM § 4030 provides that the Department evaluates all types of assets available to the assistance unit when determining the unit's eligibility for benefits.
8. 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.

The Department correctly counted the Applicant's [REDACTED] checking [REDACTED] as an accessible and countable asset.

9. UPM § 4005.10(A)(2)(a) provides that the asset limit for Medicaid for a needs group of one is \$1,600.00.

The Department correctly determined the Applicant is a needs group of one with a LTC program asset limit of \$1,600.00.

10. 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

The Department correctly determined that the Applicant first reduced her assets below the \$1,600.00 asset limit in the month of [REDACTED] 2020.

The Department correctly determined that the Applicant was not eligible for medical assistance under the Husky C-LTC program for the months of [REDACTED] 2019 and [REDACTED] 2019, because her countable assets were not reduced below the \$1,600.00 program asset limit.

The Department correctly denied the Applicant's Husky C-LTC application for [REDACTED] r and [REDACTED] 2019, and granted effective [REDACTED] of 2020, the month the Applicant first became asset eligible.

DECISION

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


Shelley Starr
Hearing Officer

Pc: Patricia Ostroski, Operations Manager, DSS R.O.# 52, New Britain

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.