

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 # ██████████
Client ID # ██████████
Request #158141

NOTICE OF DECISION

PARTY

██████████

PROCEDURAL BACKGROUND

On ██████████, 2020, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") denying his application for Husky C Medicaid benefits.

On ██████████, 2020, the Appellant's Representative requested an administrative hearing to contest the Department's decision to deny his application.

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 via telephone conference.

The following individuals participated at the hearing:

██████████, Appellant's daughter, Authorized Representative ("AREP")
██████████, Appellant's son in-law, Appellant's Witness
██████████, Appellant's Representative ("AREP")
Michelle Massicotte, Department's Representative
Miklos Mencseli, Hearing Officer

The hearing record closed on ██████████, 2020.

STATEMENT OF THE ISSUE

The issue is whether the Department correctly denied the Appellant's application for Husky C Medicaid benefits as his assets exceed the program limit.

FINDINGS OF FACT

1. On [REDACTED], 2020, the Department received an application for Long Term Care Services (L01) for the Appellant. (Summary, Exhibit 1: WLTC application)
2. The Appellant reported no bank accounts on the W-LTC application. (Exhibit 1)
3. Attorney [REDACTED] attached a letter stating what documents are enclosed with the application. The letter also states the Appellant has no bank accounts. (Exhibit 1: letter dated [REDACTED]-2020 from Attorney [REDACTED])
4. On [REDACTED], 2020, the Department submitted an Asset Verification System ("AVS") request to verify any assets belonging to the Appellant. (Exhibit 14: AVS request document [REDACTED]-2020)
5. On [REDACTED], 2020, the Department sent the Appellant's Representatives a W-1348LTC verification form requesting information needed to process the Appellant's application. The information was due by [REDACTED] 2020. (Summary, Exhibit 2: W-1348LTC Request #1 dated [REDACTED] 2020)
6. The Department sent subsequent W-1348LTC forms to the Appellant's Representatives as they provided some of the requested verifications received: W-1348LTC Request #2 (Exhibit 3), W-1348LTC Request #3 (Exhibit 4) W-1348LTC Request #4 (Exhibit 5).
7. The Appellant provided [REDACTED] (# [REDACTED]) bank statements from [REDACTED], 2020 through [REDACTED] 2020. (Exhibit 7: [REDACTED] bank statement)
8. The Appellant's Social Security and Veteran benefits are deposited into the [REDACTED] account. (Exhibit 7, Appellant's Representatives Testimony)
9. The account lists the Appellant's daughter and the Appellant on the account statement. (Exhibit 7)
10. The Department received a copy of the Appellant's [REDACTED] Policy (# [REDACTED]). The face amount is \$10,000, the Cash Value Accumulation is \$6,908.74 and the Cash Surrender Value is \$7,248.33 as of [REDACTED], 2020. (Exhibit 10: [REDACTED] policy)

11. The Appellant provided check# [REDACTED] dated [REDACTED], 2020 for \$6,028.00 payable to [REDACTED] facility for applied income. (Exhibit 8: copy of check # [REDACTED], Appellant Exhibit 3: Billing statement from [REDACTED] dated [REDACTED]-2020)
12. The Appellant received a check for \$7,108.66 from the [REDACTED] Policy (# [REDACTED]) dated [REDACTED] 2020. (Exhibit 11: check dated [REDACTED]-2020)
13. On [REDACTED], 2020, the Department received an email from Attorney [REDACTED] reporting that the Appellant died on [REDACTED], 2020. (Exhibit 6: Email dated [REDACTED]-2020)
14. The Department determined the Appellant's assets exceeded the Husky C asset program limit.
15. On [REDACTED], 2020, the Department denied the Appellant's Husky C medical application due to excess assets. (Exhibit 13: NOA dated [REDACTED]-2020)
16. The Department through AVS determined the Appellant has an additional [REDACTED] Bank (# [REDACTED]) account with a balance of \$326.38. (Exhibit 14, attached email from Department's Representative dated [REDACTED]-2020)
17. The Appellant is seeking Medicaid coverage for the period of [REDACTED], 2020 through [REDACTED] 2020. (Attorney [REDACTED] Testimony)
18. The Appellant's representatives used the \$7,108.66 from the [REDACTED] [REDACTED] Policy to pay for the Appellant's funeral expenses. (Appellant Exhibit 1: Funeral statement of expenses dated paid in full [REDACTED] 2020, Appellant's Representative Testimony)
19. The Appellant's [REDACTED] medical made a payment of \$8,325.00 to [REDACTED] for the period of [REDACTED] 2020 through [REDACTED], 2020. (Appellant's Exhibit 3: [REDACTED] statement with check dated of [REDACTED]-2020)
20. The Appellant has an outstanding balance of \$25,806.00 at [REDACTED] [REDACTED] for the period of [REDACTED], 2020 through [REDACTED], 2020. (Appellant's Exhibit 3: Billing statements from [REDACTED], Appellant's Exhibit 4: letter dated [REDACTED]-2020 to [REDACTED] from Attorney [REDACTED])
21. The Appellant's [REDACTED] (# [REDACTED]) has a balance of \$2,596.89 as of [REDACTED], 2020. (Appellant's Exhibit 2: [REDACTED] Bank statement for the period of [REDACTED], 2020 through [REDACTED], 2020)
22. The Appellant's [REDACTED] Bank (# [REDACTED]) has a balance of \$326.38. (Exhibit 14)

23. The Appellant's Representatives intend to use the remaining bank account balance to settle the Appellant's account with [REDACTED] facility. (Exhibit 4: letter dated [REDACTED]-2020 to [REDACTED] from Attorney [REDACTED] Appellant's Representative Testimony)
24. 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], 2020. Therefore, this decision is due not later than [REDACTED] 2020.

CONCLUSIONS OF LAW

1. Section 17b-260 of the Connecticut General Statutes provides for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Section 17b-261(c) of the Connecticut General Statutes provides in part that for the purposes of determining eligibility for the Medicaid program, an available asset is 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.

"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 Maintenance*, 214 Conn. 601, 573 A.2d (1990)).

3. Uniform Policy Manual ("UPM") Section 0500 provides the following definitions:

Asset

An asset is cash or any item of value which a person can use or legally convert to cash for support and maintenance.

Asset Limit

The asset limit is the maximum amount of equity in counted assets which an assistance unit may have and still be eligible for a particular program administered by the Department.

Counted Asset

A counted asset is an asset which is not excluded and either available or deemed available to the assistance unit.

Legal Owner

The legal owner of an asset is the person who is legally entitled to enjoy the benefit and use of the asset.

4. 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 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 (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.
7. UPM § 4030.05 provides for Treatment of Specific Types of assets.

A. Types of Bank Accounts

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;
6. Patient account at long-term care facility;
7. Children's school account;
8. Trustee account;
9. Custodial account.

B. Checking Account

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.

8. The Department correctly determined the Appellant has two ■■■ bank accounts that are not excluded assets.
9. UPM § 4030.30 discusses the treatment of life insurance policies as assets.

10. UPM § 4030.30(C)(1)(2) provides for treatment of Life Insurance policies. For the AABD and MAABD program if the total face value of all life insurance policies owned by the individual does not exceed \$1,500, 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. Except as provided above, the cash surrender value of life insurance policies owned by the individual is counted towards the asset limit.
11. The Department correctly determined the Appellant [REDACTED] policy is not excluded as the face amount of the policy is \$10,000.
12. The Department correctly determined that the cash surrender value of \$7,248.33 as of [REDACTED], 2020 is a countable asset in determining eligibility.
13. UPM § 4005.10(2) provides the asset limit for AABD and MAABD – Categorically and Medically Needy (Except Qualified Medicare Beneficiaries, Specified Low Income Medicare Beneficiaries, Additional Low Income Medicare Beneficiaries, Qualified Disabled and Working Individuals, Working Individuals with Disabilities and Women Diagnosed with Breast or Cervical Cancer)
 - a. The asset limit is \$1,600 for a needs group of one.
 - b. The asset limit is \$2,400 for a needs group of two.
14. The Department correctly determined the value of the Appellant's assets exceeds the HUSKY C program's \$1,600.00 asset limit for one.
15. The Department correctly denied the Appellant's application for Husky C medical assistance because his countable assets exceed the asset limit.
16. UPM § 1560.10 provides for beginning dates of Medicaid Assistance. The beginning date of assistance for Medicaid may be one of the following: A. the first day of the first, second or third month immediately preceding the month in which the Department receives a signed application when all non-procedural eligibility requirements are met and covered medical services are received at any time during that particular month.
17. UPM § 4005.15 (A) (2) provides that at the time of application, the assistance unit is ineligible until the first day of the month in which it reduces its equity in counted assets to within the asset limit.
18. UPM § 4099.05 (B) provides for the reduction of excess assets. 1. The assistance unit must verify that it has properly reduced its equity in counted assets to within the program's limit. 2. If the unit does not verify that it has

properly reduced its equity in counted assets, the unit is ineligible for assistance.

19. The Appellant had not verified he had reduced his assets to below the asset limit of \$1,600.00 in each of the relevant months to be determined eligible for the requested period of [REDACTED], 2020 through [REDACTED], 2020.

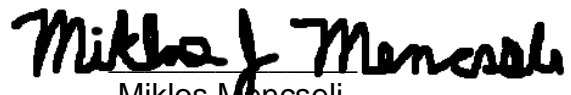
DISCUSSION

Unfortunately, the Appellant never verified that his assets were below the asset limit of \$1,600.00 in the months for which he was seeking HUSKY C coverage. In the period from [REDACTED], 2020 through [REDACTED], 2020, the Appellant has two [REDACTED] bank accounts and a Life Insurance policy with cash value. The three assets are not excluded. The Appellant did not verify that his assets were less than \$1,600.00 by the final day of each of the relevant months. The Appellant died on [REDACTED], 2020, and his assets at that time exceeded \$1,600.00.

The Appellant's representatives inquired about exemptions due to the COVID-19 pandemic. The Department has allowed all HUSKY C recipients that were enrolled (eligible) as of [REDACTED], 2020 to remain enrolled for the duration of the public health emergency (PHE) regardless of changes, the only exceptions to an extension are voluntary termination, relocation outside of CT, ineligible immigration status after completing a SAVE verification, or death. The Appellant did not qualify for the COVID-19 extension of existing benefits to individuals who were enrolled and eligible to receive HUSKY C benefits as of [REDACTED] 2020.

DECISION

The Appellant's appeal is **Denied**


Miklos Mencseli
Hearing Officer

C: Yecenia Acosta, Operations Manager, DSS R.O. # 32 Stamford
[REDACTED]

Michelle Massicotte - DSS

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.

