

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

██████████ 2021  
Signature Confirmation

Client ID # ██████████  
Request # 176860

**NOTICE OF DECISION**

**PARTY**

██████████  
██████████  
██████████

**PROCEDURAL BACKGROUND**

On ██████████ 2021, the Department of Social Services (the "Department") sent ██████████ ██████████ (the "Appellant") a Notice of Action ("NOA") granting her application for HUSKY C Medicaid for Long Term Care Facility Residents beginning ██████████ 2021 but denying the benefits for the period from ██████████ 2020 to ██████████ 2020, inclusive, because the value of her assets exceeded the limit for the program in those months.

On ██████████ 2021, the Appellant, through her conservator, requested an administrative hearing to appeal the Department's denial of her Medicaid application for the months from ██████████ 2020 to ██████████ 2020.

On ██████████ 2021, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████ ██████████ 2021.

On ██████████ 2021, because the Department's representative failed to appear for the ██████████ ██████████ 2021 hearing, OLCRAH issued a notice rescheduling the hearing for ██████████ 2021. The hearing was scheduled to be held telephonically, at the Appellant's request, due to COVID-19 concerns.

On ██████████ 2021, in accordance with sections 17b-60, 17-61 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:

██████████ Appellant's daughter and conservator of person and estate  
██████████ Business Office Manager, ██████████  
Anthony Grant, Hearing Liaison for the Department  
James Hinckley, Hearing Officer

The hearing record was held open for time for the Appellant to provide additional evidence. No additional evidence was submitted and on ██████████ 2021, the hearing record closed.

### **STATEMENT OF THE ISSUE**

Whether the Department correctly determined that the Appellant's assets exceeded the program limit in the months from ██████████ 2020 to ██████████ 2020, inclusive, and whether she was correctly denied Medicaid for those months.

### **FINDINGS OF FACT**

1. On ██████████ 2020, the Appellant was admitted to ██████████, a long term care nursing facility. (Hearing Record)
2. On ██████████ 2020, the Appellant filed an application with the Department for HUSKY C Medicaid for long term care facility residents. (Hearing Record)
3. At the time of her application the Appellant had funds in three accounts: a checking account, a savings account, and a traditional IRA. (Hearing Record)
4. As of the date of her application, the value of the Appellant's IRA, by itself, exceeded the Medicaid asset limit of \$1,600.00. (Hearing Record)
5. On ██████████ 2020, the Department requested certain items of verification from the Appellant that included statements for the bank accounts and the IRA. Included in the text of the request letter was the information, "There is no eligibility for Title 19 Long Term Care benefits in any month in which counted assets exceed \$1,600. You must prove that your total assets are below \$1,600 and also show how your funds are spent to reduce your assets below the allowable limit. Please provide copies of bills, receipts or cancelled checks that show how you reduce assets below \$1,600. (Ex. 3-A: W-1348LTC *Verification We Need* form dated ██████████ 2020)
6. In ██████████ 2020, the Appellant suffered a stroke that left her with right-side paralysis and the inability to understand or express speech. (Hearing Record)

7. On [REDACTED] 2020, the Probate Court appointed [REDACTED] the Appellant's daughter (her "Daughter"), to be the Appellant's conservator of estate and person. (Ex. A: Probate Appointment of Conservator)
8. Subsequently, on [REDACTED] 2020, [REDACTED] 2020 and [REDACTED] 2020, the Department sent the Appellant's Daughter and conservator additional requests for verification. Each of the requests included the language, "There is no eligibility for Title 19 Long Term Care benefits in any month in which counted assets exceed \$1,600." (Ex. 3-B, 3-C, 3-D)
9. On [REDACTED] 2021, the Appellant redeemed the entire plan balance of her traditional IRA, which had a total value of \$9,109.45. (Ex. 5: IRA *Distribution Election by Individual* form)
10. After redeeming her IRA, the Appellant reduced her assets to less than \$1,600.00 before the end of [REDACTED] 2021. She paid into a funeral contract, paid attorney's fees, and made a payment to the nursing home. (Hearing Record)
11. On [REDACTED] 2021, the Department issued an NOA to the Appellant granting HUSKY C Medicaid beginning [REDACTED] 2021. No nursing home payments were authorized prior to [REDACTED] 2021 because the Appellant's assets exceeded the limit in months prior to that date. (Ex. 1: NOA, Hearing Record)
12. The Appellant's Daughter experienced some delays in cashing the Appellant's IRA, such as that she had to provide documentation to the bank of her conservatorship before she could transact any business on the Appellant's behalf. There was also a substantial wait before she could get an initial appointment with the bank. (Daughter's testimony)
13. The Appellant's Daughter had other responsibilities in addition to her duties as the Appellant's conservator, such as maintaining full time employment and providing care for her father. (Daughter's testimony)

### **CONCLUSIONS OF LAW**

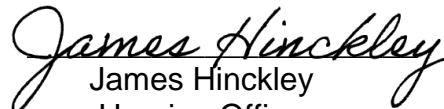
1. Section 17b-260 of the Connecticut General Statutes provides for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Connecticut General Statutes § 17b-261 (c) defines an "available asset" for purposes of determining eligibility for the Medicaid program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

3. The Department's Uniform Policy Manual ("UPM") "is the equivalent of a state regulation and, as such, carries the force of law." *Bucchere v. Rowe*, 43 Conn. Supp. 175, 177 (1994) (citing Conn. Gen. Stat. 17-3f(c) [now 17b-10]; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A. 2d 712(1990))
4. UPM § 4005.05(A) provides that "For every program administered by the Department, there is a definite asset limit".
5. 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:
  - a. available to the unit; or
  - b. deemed available to the unit."
6. 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".
7. **The Appellant's IRA was always an available asset to her. Either the Appellant or, afterwards her conservator, had the legal authority to redeem the IRA at all times during the application process.**
8. UPM § 4005.10(A)(2)(a) provides that the asset limit for Medicaid for a needs group of one is \$1600.00.
9. UPM § 4005.05(D) provides that:
  1. The Department compares the assistance unit's equity in counted assets with the program asset limit when determining whether the unit is eligible for benefits.
  2. 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, unless the assistance unit is categorically eligible for the program and the asset limit requirement does not apply (cross reference: 2500 Categorical Eligibility Requirements).
10. **The value of the Appellant's IRA exceeded the \$1,600.00 Medicaid limit until the date it was cashed on [REDACTED] 2021.**
11. **The Appellant's assets exceeded the \$1,600.00 Medicaid asset limit in [REDACTED] 2020, [REDACTED] 2020 and [REDACTED] 2020 because the value of the IRA she owned in those months, by itself, exceeded the limit.**

12. The Department was correct when it denied HUSKY C Medicaid for the Appellant for the months from [REDACTED] 2020 to [REDACTED] 2020 because the Appellant's assets exceeded the limit for the program in those months.

**DECISION**

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

  
James Hinckley  
Hearing Officer

cc: [REDACTED]  
Brian Sexton  
Anthony Grant

## **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 Legal Counsel, Regulations, and Administrative Hearings, 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, 165 Capitol Avenue, 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 his 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.