

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

CASE # ██████████
CLIENT# ██████████
REQUEST# ██████████

NOTICE OF DECISION

PARTY

██████████
██████████
██████████
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PROCEDURAL BACKGROUND

On ██████████ 2021, the Department of Social Services (the "Department") sent ██████████ ██████████ (the "Appellant"), a Notice of Action ("NOA") denying his application for Husky C L01 Long Term Care benefits due to excess assets.

On ██████████ 2021, the Appellant requested an administrative hearing to contest the denial of his application for Husky C L01 Long Term Care benefits due to excess assets.

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

On ██████████ 2021, OLCRAH issued a notice rescheduling the administrative hearing for ██████████ 2021.

On ██████████ 2021, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-189 inclusive, of the Connecticut General Statutes, OLCRAH held an in-person administrative hearing. The following individuals participated in the hearing:

Appellant's Authorized Representative, ██████████
Department's Representative, Hazel Rodriguez

Hearing Officer, Joshua Couillard

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly denied the Appellant's application for Husky C L01 Long Term Care benefits due to excess assets.

FINDINGS OF FACT

1. On [REDACTED] 2021, the Appellant applied for Husky C L01 Long Term Care benefits. (Exhibit 2: W-1LTC Application form, Department's Testimony)
2. [REDACTED] is the Appellant's Conservator and Authorized Representative ("AREP"). (Exhibit 2, Exhibit 3: State of Connecticut Certificate of Conservatorship)
3. On [REDACTED] 2021, the Appellant was admitted to [REDACTED]. On [REDACTED] 2021, the Appellant was discharged from [REDACTED]. (Hearing Record, Department's Testimony).
4. On [REDACTED] 2021, the Department issued the Appellant's AREP a W-1348LTC Verification We Need form requesting bank statements for the Appellant's checking account with [REDACTED]. The request form also asked the Appellant's AREP to verify that the Appellant's total assets are below \$1,600. (Exhibit 5C: W-1348LTC Verification We Need form, Exhibit 6: Case Notes, Department's Testimony)
5. The Appellant is the sole owner of the checking account with [REDACTED]. (AREP's Testimony)
6. The Appellant's receives \$1,244 per month in Social Security benefit ("SSA") income deposited into his checking account with [REDACTED]. (Exhibit 7: [REDACTED] Bank Statements)
7. On [REDACTED] 2021, the Appellant's AREP submitted all requested [REDACTED] checking statements. Account balances for each month are as follows:

Highest Daily Balance Date	Highest Daily Balance Amount Subtracting SSA
[REDACTED] 2021	\$17,489.02 - \$1,244 = \$16,245.02
[REDACTED] 2021	\$18,733.02 - \$1,244 = \$17,489.02
[REDACTED] 2021	\$17,205.76 - \$1,244 = \$15,961.76
[REDACTED] 2021	\$18,135.26 - \$1,244 = \$16,891.26

(Exhibit 7, Department's Testimony)

8. On [REDACTED] 2021, the Department issued a NOA to the Appellant denying his application for Husky C L01 Long Term Care benefits due to excess assets. (Exhibit 8: NOA)
9. 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 hearing request was received on [REDACTED] 2021. The hearing record was extended for an additional [REDACTED] days due to rescheduling of the hearing. Therefore, this decision is due not later than [REDACTED] 2021.

CONCLUSIONS OF LAW

1. “*Programs administered by the Department of Social Services.* 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.” Connecticut General Statutes (Conn. Gen. Stat.) § 17b-2 (6)
2. 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))
3. “*Authorized Representatives.* An authorized representative must be designated in writing by one of the following individuals: in the AABD and MA programs, by the applicant, or if the applicant is a child, incompetent or incapacitated, by the parent, custodian, or court appointed fiduciary.” UPM § 1525.05 (C)(2)

The Department correctly listed [REDACTED] as the Appellant’s AREP.

4. “*Supplying Information.* The assistance unit must supply the Department, in an accurate and timely manner as defined by the Department, all pertinent information and verification which the Department requires to determine eligibility and calculate the amount of benefits.” UPM § 1010.05 (A)(1)

The Department correctly issued a W-1348LTC Verification We Need form on [REDACTED] 2021 requesting bank statements for the Appellant’s checking account with [REDACTED].

5. “*Assets Counted Toward the Asset Limit.* 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.” UPM § 4005.05 (B)(1)
6. “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.” UPM § 4005.05 (B)(2)

7. “*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.” UPM § 4030.05 (A)

The Department correctly determined that the Appellant's [REDACTED] checking account is a countable asset and was available to the Appellant through his Conservator/AREP.

8. “*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.” UPM § 4030.05(B)
9. “*Asset Limits for All Programs*. The asset limits for the Department's programs are as follows. AABD and MAABD – Categorically and Medically Needy. The asset limit is \$1,600 for a needs group of one.” UPM § 4005.10 (A)(2)(a)
10. “*Applicants*. At the time of application, the assistance unit is ineligible for assistance until the first day it reduces its equity in counted assets to within the particular program asset limit.” UPM § 4005.15 (A)(1)

The Department correctly determined that the Appellant's [REDACTED] checking account had a balance greater than the allowable \$1,600 limit for each month that the Appellant was residing in [REDACTED] after subtracting the \$1,244 monthly SSA deposit from each month's highest balance.

The Department correctly denied the Appellant's application for Husky C L01 Long Term Care benefits due to excess assets.

DECISION

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



Joshua Couillard
Fair Hearing Officer

CC: Musa Mohamud, Hartford Regional Office Operations Manager
Judy Williams, Hartford Regional Office Operations Manager
Jessica Carroll, Hartford Regional Office Operations Manager
Jay Bartolomei, Hartford Regional Office Fair Hearings Supervisor
Hazel Rodriguez, Waterbury LTC Eligibility Services Worker

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, 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 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.