

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

■■■■ 2022  
Signature Confirmation

Client ID ■■■■  
Case ID ■■■■  
Request # 189432

**NOTICE OF DECISION**

**PARTY**

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■■■■  
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**PROCEDURAL BACKGROUND**

On ■■■■ 2022, the Department of Social Services (the "Department") sent ■■■■ (the "Applicant") a Notice of Action ("NOA") denying his application for Medicaid benefits under the Husky C - Long Term Care Program ("Husky C") effective ■■■■ 2021.

On ■■■■ 2022, ■■■■ (the "Appellant"), the Applicant's Spouse, requested an administrative hearing to contest the Department's decision to deny such benefits.

On ■■■■ 2022, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ■■■■ 2022.

On ■■■■ 2022, 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:

■■■■ Appellant

■■■■ Attorney for the Appellant

Bryant Grimes, Department Representative, Participated by Teleconference

Lisa Nyren, Fair Hearing Officer

Christopher Filek, Department Usher

## **STATEMENT OF THE ISSUE**

The issues to be decided are:

1. Whether the Department correctly calculated the assessment of spousal assets under the Husky C program;
2. Whether the Appellant needs additional assets protected from the Applicant's share of assets to produce additional income to meet the Appellant's Minimum Monthly Needs Allowance; and
3. Whether the Department correctly denied the Applicant's application for medical benefits under the Husky C program.

## **FINDINGS OF FACT**

1. On [REDACTED] [REDACTED] 2021, the Applicant was admitted to the hospital. (Exhibit 6: Application for Determination of Spousal Assets)
2. On [REDACTED] [REDACTED] 2021, [REDACTED] (the "facility"), a nursing care facility, admitted the Appellant to their facility where he remained until his death on [REDACTED] [REDACTED] 2022. (Exhibit 6: Application for Determination of Spousal Assets, Exhibit A: Assets/Income/Death Certificate, and Exhibit E: Fair Hearing Memorandum)
3. On [REDACTED] [REDACTED] 2021, the Department received a W-1-LTC Long-term Care/Waiver Application (the "application") from the Appellant on behalf of the Applicant requesting medical assistance under the Husky C program to cover the Applicant's stay at the nursing facility. (Exhibit 1: Long-term Care/Waiver Application)
4. On [REDACTED] [REDACTED] 2021, the Department received a W-1-SA Application for Determination of Spousal Assets (the "assessment request") from the Appellant on behalf of the Applicant requesting an assessment of spousal assets to supplement the application for Husky C made the same day. (Exhibit 6: Application for Determination of Spousal Assets)
5. The Applicant is married to the Appellant. (Hearing Record)
6. The Appellant resides in the community at [REDACTED] [REDACTED] (Hearing Record)
7. [REDACTED] (the "Attorney") is the Appellant's attorney. (Hearing Record)

8. The Applicant receives gross Social Security benefits ("SSA") of \$1,159.50 per month. Beginning [REDACTED] [REDACTED] 2022, the Applicant's monthly SSA increased to \$1,228.00. (Stipulated)
9. The Department granted the Applicant medical benefits under the Medicare Savings Plan ("MSP"), Qualified Medicare Beneficiaries ("QMB") coverage beginning [REDACTED] [REDACTED] 2021. Prior to this coverage, the Applicant paid Medicare Part B premiums of \$148.50 per month and Medicare Part D premiums of \$86.00 monthly. (Exhibit 4: Notice of Action and Exhibit A: Assets and Income)
10. The Appellant receives monthly gross SSA of \$1,209.50. Beginning [REDACTED] [REDACTED] 2022, the Appellant's gross monthly SSA increased to \$1,281.70. (Stipulated)
11. In 2021, the Appellant paid for Medicare Part B premium of \$148.50 per month and Medicare Part D premiums of \$86.00 monthly. Beginning [REDACTED] 2022, the Medicare Part B premium increased to \$170.10 monthly. (Exhibit A: Assets and Income)
12. The Appellant pays \$1,600.00 per month rent and pays utilities separate from her rent. (Exhibit A: Assets/Income/Death Certificate)
13. The Appellant pays for renter's insurance \$210.00 annually. (Exhibit A: Assets/Income/Death Certificate)
14. The Department determined the date of institutionalization as [REDACTED] [REDACTED] 2021, the date the Applicant was hospitalized. (Stipulated)
15. The Applicant and Appellant own a checking account with [REDACTED] [REDACTED] ("DDA 5615") valued as \$444.99 as of the DOI. (Stipulated)
16. The Appellant owns a Money Market account with [REDACTED] [REDACTED] ("account 3760") valued at \$195,000.00 as of the DOI. (Stipulated)
17. The Appellant owns a Money Market account with [REDACTED] [REDACTED] ("account 0025") valued at \$52,020.96 as of the DOI. (Stipulated)
18. The Appellant owns a checking account with [REDACTED] [REDACTED] ("DDA 3565") valued at \$217.08 as of the DOI. (Stipulated)
19. The Appellant owns a checking account with [REDACTED] [REDACTED] ("DDA 9327") valued at \$458.68 as of the DOI. (Stipulated)
20. The Appellant owns a checking account with [REDACTED] [REDACTED] ("DDA 9985") valued at \$363.76 as of the DOI. (Stipulated)

21. The Appellant owns stocks managed by [REDACTED] (“Investment account”) valued at \$14,604.68 as of the DOI. (Stipulated)
22. The Department determined the total of the marital non-exempt assets as \$262,893.07. Reference chart below. (Stipulated)

Asset	Value as of DOI
DDA 5615	\$444.99
account 3760	\$195,000.00
account 0025	\$52,020.96
DDA 9327	\$458.68
DDA 9985	\$363.76
Investment account	\$14,604.68
Total	\$262,893.07

23. The Department erroneously excluded DDA 3565 with a value of \$217.08 from the total of the marital non-exempt assets. (Department Representative’s Testimony)
24. The Department determined the spousal share of the total marital non-exempt assets as \$131,446.53 as of the DOI, one half of the total non-exempt marital assets.  $\$262,893.07 / 2 = \$131,446.53$ . (Exhibit 3: Notice of Assessment of Spousal Assets)
25. As of [REDACTED] [REDACTED] 2021, the DOI, the maximum Community Spouse Protected Amount (“CSPA”) equaled \$130,380.00. (Exhibit 3: Notice of Assessment of Spousal Assets and Department Representative’s Testimony)
26. The Department determined the CSPA as \$130,380.00. (Exhibit 3: Notice of Assessment of Spousal Assets and Department Representative’s Testimony)
27. The asset limit under Husky C equals \$1,600.00. (Exhibit 3: Notice of Assessment of Spousal Assets and Department Representative’s Testimony)
28. Based on the assessment of spousal assets, the Department determined that the Applicant and the Appellant could retain assets in the combined amount of \$131,980.00 to qualify for medical benefits under the Husky C program.  $\$130,380.00 \text{ CSPA} + \$1,600.00 \text{ Applicant’s assets} = \$131,980.00$ . (Exhibit 3: Notice of Assessment of Spousal Assets and Department Representative’s Testimony)
29. The Department determined the Applicant ineligible for medical coverage under the Husky C program because the Applicant’s assets for the months

██████████ 2021 through ██████████ 2022 exceed the \$1,600.00 Husky C asset limit. The Department denied the Applicant's application for medical coverage under the Husky C program effective ██████████ █ 2021. Reference chart below. (Hearing Record)

<b>Assets</b>	<b>██████████ 2021</b>	<b>██████████ 2021</b>	<b>██████████ 2022</b>	<b>██████████ 2022</b>
DDA 5615	\$444.99	\$444.99	\$444.99	\$444.99
account 3760	\$195,000.00	\$195,000.00	\$195,000.00	\$195,000.00
account 0025	\$52,020.96	\$52,020.96	\$52,020.96	\$52,020.96
DDA 9327	\$458.68	\$458.68	\$458.68	\$458.68
DDA 9985	\$363.76	\$363.76	\$363.76	\$363.76
Investment account	\$14,604.68	\$14,604.68	\$14,604.68	\$14,604.68
Total marital assets	\$262,893.07	\$262,893.07	\$262,893.07	\$262,893.07
Appellant Share	\$131,446.53	\$131,446.53	\$131,446.53	\$131,446.53
<b>Applicant Share</b>	<b>\$131,446.53</b>	<b>\$131,446.53</b>	<b>\$131,446.53</b>	<b>\$131,446.53</b>
<b>Asset Limit</b>	<b>\$1,600.00</b>	<b>\$1,600.00</b>	<b>\$1,600.00</b>	<b>\$1,600.00</b>

30. On ██████████ █ 2022, the Department issued the Applicant a Notice of Assessment of Spousal Assets. The notice listed the total non-exempt marital assets as \$262,893.07, the Applicant's share as \$131,446.53, and the Appellant's share as \$131,496.53. The notice informed the Applicant the maximum amount of assets which he and the Appellant may keep under the Husky C program equals \$131,980.00 based on \$130,380.00 CSPA and \$1,600.00 Applicant's assets. (Exhibit 3: Notice of Assessment of Spousal Assets)
31. On ██████████ █ 2022, the Department issued the Applicant a Notice of Action denying his application for medical benefits under the Husky C program effective ██████████ █ 2021 for the reason the value of your assets is more than the amount allowed by this program. (Exhibit 4: Notice of Action)
32. The Appellant seeks an adjustment of the CSPA as of the DOI allowing her to keep additional assets from the Applicant's share to produce additional income to meet her needs in the community. (Hearing Record)
33. The Appellant is not claiming extraordinary circumstances. (Exhibit E: Fair Hearing Memorandum)
34. 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 ██████████ █ 2022. Therefore, this decision is due not later than ██████████ █ 2022.

## CONCLUSIONS OF LAW

1. Section 17b-2(6) of the Connecticut General Statutes provides as follows:  
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.
2. "The Department of Social Services shall be the sole agency to determine eligibility for assistance and services under programs operated and administered by said department." Conn. Gen. Stat. § 17b-261b
3. 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))
4. Section 1570.25(D)(2) of the Uniform Policy Manual ("UPM") provides as follows:

The Fair Hearing official adjusts the results of the assessment of spousal assets when:

- a. Either MCCA spouse requests a hearing regarding the assessment;  
and
  - b. The Fair Hearing official determines the results of the assessment were incorrectly determined (Cross Reference 1507).
5. State statute provides as follows:

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. If the terms of a trust provide for the support of an applicant, the refusal of a trustee to make a distribution from the trust does not render the trust an unavailable asset. Notwithstanding the provisions of this subsection, the availability of funds in a trust or similar instrument funded in whole or in part by the applicant or the applicant's spouse shall be determined pursuant to the Omnibus Budget Reconciliation Act of 1993, 42 USC 1396p. The provisions of this subsection shall not apply to a special needs trust, as defined in 42 USC 1396p(d)(4)(A), as amended from time to time. For purposes of determining whether a beneficiary under a special needs trust, who has not received a disability determination from the Social Security Administration, is disabled, as defined in 42 USC 1382c(a)(3), the Commissioner of Social Services, or the commissioner's designee, shall

independently make such determination. The commissioner shall not require such beneficiary to apply for Social Security disability benefits or obtain a disability determination from the Social Security Administration for purposes of determining whether the beneficiary is disabled.

Conn. Gen. Stat. § 17b-261(c)

6. Department policy provides for the following definitions:

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. An available asset is 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 to have applied for, his or her general or medical support. A counted asset is an asset which is not excluded and either available or deemed available to the assistance unit. A deemed asset is an asset owned by someone who is not a member of the assistance unit but which is considered available to the unit.

UPM § 4000.01

7. Department policy provides as follows:

A community spouse is an individual who resides in the community, who does not receive home and community based services under a Medicaid waiver, who is married to an individual who resides in a medical facility or long term care facility or who receives home and community based services (BS) under a Medicaid waiver. UPM § 4000.01

**The Department correctly determined the Appellant as the Community Spouse (CS).**

8. Department policy provides as follows:

An institutionalized spouse is a spouse who resides in a medical facility or long term care facility, or who receives home and community based services (CBS) under a Medicaid waiver, and who is legally married to someone who does not reside in such facilities or who does not receive such services. UPM § 4000.01

**The Department correctly determined the Applicant as the Institutionalized Spouse (IS).**

9. "MCCA [Medicare Catastrophic Coverage Act of 1988] spouses are spouses who are members of a married couple one of whom becomes an

institutionalized spouse on or after September 30, 1989, and the other spouse becomes a community spouse.” UPM § 4000.01

**The Department correctly determined the Applicant and the Appellant as MCCA spouses.**

10. “The chapter on assessment of spousal assets discusses the special processing requirements associated with the evaluation of assets of an institutionalized spouse and community spouse.” UPM § 1507

Department policy provides as follows: The Department provides an assessment of assets:

- a. At the request of an institutionalized spouse or a community spouse:
  1. When one of the spouses begins his or her initial continuous period or institutionalization and
  2. Whether or not there is an application for Medicaid; or
- b. At the time of application for Medicaid whether or not a request is made.

UPM § 1507.05(A)(1)

**The Department correctly conducted an assessment of spousal assets.**

11. “The beginning date of a continuous period of institutionalization is: for those in medical institutions or long term care facilities, the initial date of admission.” UPM § 1507.05(A)(2)(a)

“A continuous period of institutionalization is a period of 30 or more consecutive days of residence in a medical institution or long term care facility, or receipt of home and community based services (CBS) under a Medicaid waiver.” UPM § 1500.01

“The assessment is completed using the assets which existed as of the date of the beginning of the initial continuous period of institutionalization which started on or after September 30, 1989.” UPM § 1507.05(A)(3)

Department policy provides as follows:

The assessment consists of:

- a. A computation of the total value of all non-excluded available assets owned by either or both spouse; and
- b. A computation of the spousal share of those assets.



UPM § 1507.05(A)(3)

“A spousal share is one-half of the total value of assets which results from the assessment of spousal assets.” UPM § 4000.01

**The Department correctly determined the date of institutionalization (“DOI”) as ██████████ 2021.**

**The Department correctly determined the assessment of spousal assets is completed using the assets owned by the Applicant and Appellant as of ██████████ 2021, the DOI.**

12. Department policy provides as follows:

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.

UPM § 4005.05(B)(1)

“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)

“The Department evaluates all types of assets available to the assistance unit when determining the unit’s eligibility for benefits.” UPM § 4030

“Subject to the limitations described below, personal property such as a bank account held jointly by the assistance unit and by another person is counted in full toward the asset limit.” UPM § 4010.10(A)(1)

“Deemed assets are assets which are owned by individuals who are not members of the assistance unit, but which are considered available to the unit.” UPM § 4025.05(A)(1)

“The Department adds the value of those assets which are deemed to the assistance unit to the value of the unit’s own counted assets in computing the total value of the unit’s counted assets.” UPM § 4025.05(A)(4)

“Bank accounts include the following. This list is not all inclusive. (1) Savings account; (2) Checking account.” UPM § 4030.05(A)

“Stocks. The equity value of a share of stock is the net amount the owner would receive upon selling the share.” UPM § 4030.75(A)(1)

Section P-1507.10 of the UPM provides for the assessment process procedures.

**The Department correctly determined the following accounts as counted assets: DDA 5615, account 3760, account 0025, DDA 9327, DDA 9985, and the Investment account. The Department inadvertently excluded DDA 3565 as a counted asset.**

**The Department correctly determined the DOI equity value of each of the counted assets as listed in the chart below.**

Asset	Value as of DOI
DDA 5615	\$444.99
account 3760	\$195,000.00
account 0025	\$52,020.96
DDA 9327	\$458.68
DDA 9985	\$363.76
Investment account	\$14,604.68
DDA 3565	\$217.08

**The Department incorrectly determined the total value of all counted assets owned by the Applicant and Appellant as \$262,893.07. The correct amount equals \$263,110.15, which includes DDA 3565’s equity value.**

13. “A community spouse protected amount is the amount of the total available non-excluded assets owned by both MCCA spouses which is protected for the community spouse and is not counted in determining the institutionalized spouse’s eligibility for Medicaid.” UPM § 1500.01

Effective January 1, 2021, the maximum resource standard under spousal impoverishment rules equals \$130,380.00. [Department of Health & Human Services, Centers for Medicare and Medicaid Services, Center for Medicaid & Chip Services (CMCS) Informational Bulletin, Updated 2021 SSI and Spousal Impoverishment Standards, June 24, 2021]

**The Department incorrectly determined the spousal share of assets under the assessment of spousal assets as \$131,446.53. The correct calculation equals \$131,555.08.  $\$263,110.15 / 2 = \$131,555.075$ .**

**However, the Department correctly determined the community spouse protected amount (“CSPA”) as \$130,380.00, the maximum allowed under the Medicaid program/Husky C. The exclusion of DDA**

**3565 does not impact the calculation of the CSPA as \$130,380.00, the maximum allowed.**

14. "The Department provides a notification of the results of the assessment to each spouse." UPM § 1507.05(C)(1)

**On ████████ 2022, the Department correctly issued a Notice of Assessment of Spousal Assets.**

15. State statute provides as follows:

An institutionalized spouse applying for Medicaid and having a spouse living in the community shall be required, to the maximum extent permitted by law, to divert income to such community spouse in order to raise the community spouse's income to the level of the minimum monthly needs allowance, as described in Section 1924 of the Social Security Act. Such diversion of income shall occur before the community spouse is allowed to retain assets in excess of the community spouse protected amount described in Section 1924 of the Social Security Act. The Commissioner of Social Services, pursuant to section 17b-10, may implement the provisions of this subsection while in the process of adopting regulations, provided the commissioner prints notice of intent to adopt the regulations in the Connecticut Law Journal within twenty days of adopting such policy. Such policy shall be valid until the time final regulations are effective.

Conn. Gen. Stat. § 17b-261(g)

16. Department policy provides for the calculation of the community spousal allowance as follows:

1. The CSA is equal to the greater of the following:
  - a. The difference between the Minimum Monthly Needs Allowance (MMNA) and the community spouse gross monthly income; or
  - b. The amount established pursuant to court order for the purpose of providing necessary spousal support.
2. The MMNA is that amount which is equal to the sum of:
  - a. The amount of the community spouse's excess shelter cost as calculated in section 5035.30B.3.; and
  - b. 150 percent of the monthly poverty level for a unit of two persons.
3. The community spouse's excess shelter cost is equal to the difference between his or her shelter cost as described in section 5035.30B.4 and 30% of 150 percent of the monthly poverty level for a unit of two persons.
4. The community spouse's monthly shelter cost includes:
  - a. Rental costs or mortgage payments, including principle and interest; and

- b. Real estate taxes; and
  - c. Real estate insurance; and
  - d. Required maintenance fees charged by condominiums or cooperatives except those amounts for utilities; and
  - e. Standard utility Allowance (SUA) used in the FS program for the community spouse.
5. The MMNA may not exceed the greatest of either:
- a. The maximum MMNA; or
  - b. An amount established through a Fair Hearing.

UPM § 5035.30(B)

The 2021 Poverty Guidelines for the 8 Contiguous States and the District of Columbia for a household of two (2) equals \$17,420.00 annually. [Federal Register / Vol. 86, No. 19 / Monday, February 1, 2021 / Notices p.7733]

Effective October 1, 2021 through September 30, 2022, the standard utility allowance in the State of Connecticut equals \$783.00 monthly. [US Department of Agriculture, Food and Nutrition Services, SNAP SUA Table FY2022, 12/16/2021]

Effective January 1, 2021, the maximum monthly maintenance needs allowance under spousal impoverishment rules equals \$3,259.50. [Department of Health & Human Services, Centers for Medicare and Medicaid Services, Center for Medicaid & Chip Services (CMCS) Informational Bulletin, Updated 2021 SSI and Spousal Impoverishment Standards, June 24, 2021]

**The Appellant's MMNA equals \$3,259.50, the maximum allowed as calculated below:**

**\$17,420.00 annual FPL / 12 months = \$1,451.6666 monthly FPL x 150% = \$2,177.4999    150% FPL for 2 = \$2,177.50.**

**\$2,177.50 150% of FPL x 30% = \$653.2499    30% of 150% of FPL for 2 = \$653.25.**

<b>Monthly Rent</b>	<b>\$ 1,600.00</b>
<b>Renters Insurance</b>	<b>+ \$17.50</b>
<b>SUA</b>	<b>+ \$783.00</b>
<b>Total Shelter Costs</b>	<b>= \$2,400.50</b>
<b>30% of 150% of FPL for 2</b>	<b>- \$653.25</b>
<b>Excess Shelter Cost</b>	<b>= \$1,747.25</b>
<b>150% FPL for 2</b>	<b>+\$2,177.50</b>
	<b>=\$3,924.75</b>
<b>MMNA (capped at \$3,259.50)</b>	<b>\$3,259.50</b>

**The deficit between the Appellant's income and her MMNA equals \$2,050.00. \$3,259.50 MMNA - \$1,209.50 Appellant's monthly gross income = \$2,050.00 deficit.**

17. "For resident of long term care facilities (LTCF) and those individuals receiving community-based services (CBS) when the individual has a spouse living in community, total gross income is adjusted by certain deductions to calculate the amount of income which is to be applied to the monthly cost of care." UPM § 5035.25

Department policy provides as follows:

The following monthly deductions are allowed from the income of assistance units in LTCF's:

1. A personal needs allowance of [\$75.00], which, effective July 1, 1999 and annually thereafter, shall be increased to reflect the annual cost of living adjustment used by the Social Security Administration;
2. A community Spouse Allowance (CSA), when appropriate; (Cross Reference 5035.30)
3. A community Family Allowance (CFA), when appropriate; (Cross Reference 5035.35)
4. Medicare and other health insurance premiums, deductibles, and coinsurance costs when not paid for the Department or any other third party;
5. Costs for medical treatment approved by a physician which are incurred subsequent to the effective date of eligibility and which are not covered by Medicaid;
6. Expenses for services provided by a licensed medical provider in the six month period immediately preceding the first month of eligibility providing the following conditions are met:
  - a. The expenses were not for LTCF services, services provided by a medical institution equivalent to those provided in a long term care facility, or home and community-based services, when any of these services were incurred during a penalty period resulting from an improper transfer of assets; and
  - b. The recipient is currently liable for the expenses; and
  - c. The services are not covered by Medicaid in a prior period of eligibility.

UPM § 5035.25(B)

"The CSA is used as an income deduction in the calculation of the post-eligibility applied income of an institutionalized spouse (IS) only when the

IS makes the allowance available to the community spouse (CS) or for the sole benefit of the CS.” UPM § 5035.30(A0(1))

**After reducing the Applicant’s income by the appropriate deductions as outlined under UPM § 5035.25(B), the community spousal allowance (CSA) equals \$850.00. Beginning [REDACTED] 2021, the CSA equals \$1,084.00. The Department’s grant of MSP QMB coverage beginning [REDACTED] 2021 accounts for the difference in the calculation of the CSA beginning [REDACTED] 2021.**

<b>SSA</b>	<b>-</b>	<b>PNA</b>	<b>-</b>	<b>Med B</b>	<b>-</b>	<b>Med D</b>	<b>=</b>	<b>CSA</b>
<b>\$1,159.50</b>	<b>-</b>	<b>\$75.00</b>	<b>-</b>	<b>\$148.50</b>	<b>-</b>	<b>\$86.00</b>	<b>=</b>	<b>\$850.00</b>
<b>\$1,159.50</b>	<b>-</b>	<b>\$75.00</b>	<b>-</b>	<b>\$00.00</b>	<b>-</b>	<b>\$00.00</b>	<b>=</b>	<b>\$1,084.50</b>

18. Department policy provides as follows:

The Fair Hearing official increases the Community Spouse Protected Amount (CSPA) if either MCCA spouse established that the CSPA previously determined by the Department is not enough to raise the community spouse’s income to the MMNA (Cross References 4022.05 and 4025.67)

UPM § 1570.25(D)(4)

For applications filed on or after 10-1-03, in computing the amount of the community spouse’s income, the Fair Hearing official first allows for a diversion of the institutionalized spouse’s income in all cases.

UPM § 1570.25(D)(4)(b)

In determining the amount of assets needed to raise the community spouse’s income to the MMNA, the Fair Hearing official computes the amount of assets that would generate the required income, assuming the asset is producing income at the higher of the following rates: the current average rate of return generated by a 12 month certificate of deposit as determined by the Department as of the date of the Fair Hearing; or the rate that is actually being generated by the asset.

UPM § 1570.25(D)(4)(b)

Department procedures for the Adjustment of CSPA in pertinent part are as follows:

If the income from step 7 is not sufficient, compare the income currently being generated by the CS’s assets (the CSPA amount) to what **would** be generated if the assets were producing income at a rate equal to the current average rate of return generated by a 12 month CS. To determine

the return generated by a 12 month CS, average the three highest yield on 12 month CDs for banks with a physical presence in Connecticut. This figure can be obtained by referring to a reliable internet website, such as depositaccounts.com. If depositaccounts.com no longer exists or no longer provides information about banks with a physical presence in Connecticut, you may use a different website to obtain information about the rate of return on a 12 month CD for banks with a physical presence in Connecticut. Document the source of your information in the case notes. For spouses who live in another state, the yield determination should be based on the average of the three highest yields in banks with a physical presence the state where the spouse resides. Again, if you cannot obtain this information using depositaccounts.com you may use a different website and document the source of your information in the case notes.

UPM P-1570.30(9)

As of ██████ 2022, the 12 month Certificate of Deposit bank rate was 00.30 annual percentage yield (APY) as determined by www.depositaccounts.com.

**After diverting the Applicant’s income to the Appellant, the Appellant still retains a deficit of \$1,200.00 as of the DOI and \$965.50 monthly beginning ██████ 2021.**

Deficit	-	CSA	=	Deficit
\$2,050.00	-	\$850.00	=	\$1,200.00
\$2,050.00	-	\$1,084.50	=	\$965.50

**The total combined assets of the Applicant and the Appellant would generate monthly interest income of \$65.78. Reference chart.**

Asset	Value as of DOI	X	Interest Rate a/o █/█/22	=	Annual Interest Income	/12	Monthly Interest Income
DDA 5615	\$444.99	X	00.30 %	=	\$1.33	/12	\$00.11
Account 3760	\$195,000.00	X	00.30 %	=	\$585.00	/12	\$48.75
Account 0025	\$52,020.96	X	00.30 %	=	\$156.06	/12	\$13.01
DDA 3565	\$217.08	X	00.30 %	=	\$00.65	/12	\$00.05
DDA 9327	\$458.68	X	00.30 %	=	\$1.38	/12	\$00.12
DDA 9985	\$363.76	X	00.30 %	=	\$1.09	/12	\$00.09
Investment Account	\$14,604.68	X	00.30 %	=	\$43.81	/12	\$03.65
<b>Totals</b>	<b>\$263,110.15</b>	<b>x</b>	<b>00.30 %</b>	<b>=</b>	<b>\$789.32</b>	<b>/12</b>	<b>\$65.78</b>

**With additional interest income, the Appellant retains a deficit as demonstrated in the chart below.**

Deficit	-	Interest Income	=	Remaining deficit
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\$1,200.00	-	\$65.78	=	\$1,134.22
\$965.50	-	\$65.78	=	\$899.72

**The Appellant's CSPA is increased to \$263,110.15 to generate additional interest income needed to help meet her MMNA as of the DOI.**

**As of the DOI, the Applicant has zero assets.**

19. "In order to qualify for assistance, an assistance unit must meet certain financial eligibility requirements. These requirements, based on state and federal law, pertain to income and assets." UPM § 4000

"For every program administered by the Department, there is a definite asset limit." UPM § 4005.05(A)

"AABD and MAABD – Categorically and Medically Needy. The assets limit is \$1,600 for a needs group of one." UPM 4005.10(A)(2)

"A community spouse disregard is the amount of the institutionalized spouse's available non-excluded assets which is excluded in determining the institutionalized spouse's eligibility for Medicaid." UPM § 1500.01

"The Department compares the assistance unit's equity in counted assets which the program asset limit when determining whether the unit is eligible for benefits." UPM 4005.05(D)(1)

"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: Categorical Eligibility Requirements)." UPM § 4005.05(D)(2)

**As of the DOI, the Applicant's assets do not exceed the Husky C asset limit of \$1,600.00. Therefore, the Applicant is asset eligible for medical benefits under the Husky C program at time of application provided that all other eligibility factors are met.**

### **DISCUSSION**

The Department acted correctly in its determination of the Applicant's ineligibility. However, Department policy allows the Hearing Officer to increase the CSPA if the community spouse (the Appellant) establishes that the CSPA previously determined by the Department is not enough to raise the community spouse's



income to the MMNA. The hearing record establishes an increase in the CSPA is appropriate.

Although the Attorney for the Appellant requested an increase in the Appellant's MMNA through her brief, the hearing record established there was no claim of exceptional circumstances from the Appellant. Department policy allows the hearing officer to increase the MMNA if the community spouse (the Appellant) established she has incurred significant financial duress due to an expense(s) which directly arises from the exceptional circumstances. The request to increase the MMNA is denied.

### **DECISION**

The Appellant's appeal is GRANTED.

### **ORDER**

1. The Department will reopen the Applicant's application for medical coverage under the Husky C program effective [REDACTED] 2021, the date of application, and continue to process eligibility.
2. As of the DOI, the CSPA is increased to \$263,110.15.
3. As of the DOI, the Applicant has zero assets.
4. The Appellant is entitled to a CSA calculated at \$850.00 increasing to \$1,084.50 beginning [REDACTED] 2021.
5. Compliance is due 14 days from the date of this decision.

*Lisa A. Nyren*  
Lisa A. Nyren  
Fair Hearing Officer

CC: [REDACTED]

[REDACTED]  
Brian Sexton, DSS RO #50  
Bryant Grimes, DSS RO #20



### **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.