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 # 193868

NOTICE OF DECISION

PARTY

PROCEDURAL BACKGROUND

On 2022, the Department of Social Services (the "Department") sent (the "Appellant") a Notice of Action ("NOA) denying her application request for medical benefits under the Husky C Individual Receiving Home and Community Based Services Medicaid Program ("W01"), specifically, the Connecticut Home Care Program for Elders Medicaid Waiver ("CHCPE").

On , 2022, the Appellant requested an administrative hearing to contest the Department's decision to deny her application for 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 called in for the hearing:

, Appellant

, Appellant's son and representative
Abdaleh Mohamoud, Department's Representative
Kristen Bert, Department's representative
Scott Zuckerman, Hearing Officer

A separate decision will be issued to address the Department's decision to discontinue the Appellant's Husky C Medicaid benefits effective 2022.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Appellant's application for W01 was correct.

FINDINGS OF FACT

1. On 2022, the Department received a M2T interoffice home care application for the Home and Community Based Services program ("WO1"). (Hearing Summary and Exhibit 1: Email, , 2022)

2. On February 19, 2022, the Department sent the Appellant a W-1348LTC, Verification We Need form. The Department requested the Appellant provide a copy of her divorce decree and copies of the most recent bank account statements for the following accounts: Region Bank checking acct # , Region Bank checking account # Region Bank savings acct # , Navy FCU checking account # , Navy FCU savings account ending in # , Navy FCU savings acct ending in , Chase savings account ending in # , and Chase Bank checking account ending in # . The due date for the requested information was 2022. The Department indicated that there is no eligibility for Title 19 Long Term Care Benefits are reduced below $1600.00. (Exhibit 2: W-1348LTC, 2022)

3. On 2022, the Department determined by the Asset Verification System ("AVS") the following balances as of 2022:

Acct # Checking	Acct # Savings	Acct # Checking	Acct # Savings	Acct # Savings	Acct # Checking	Acct # Savings	Acct # checking	Acct #	Totals
$156.00	$215.91	$54.04	$25.00	$1108.46	$1230.92	$390.25	$51.99	$9.16	$3241.73

(Exhibit 6: AVS Results – Liquid Assets Details)

4. On 2022, the Appellant's SSA check in the amount of $483.00 was deposited into Chase checking account # . (Exhibit 8: Chase Bank statement 2022)

5. On 2022, the Appellant's Chase bank checking account # had a balance of $371.21. (Exhibit 8: Chase Bank statement 2022)

6. On 2022, the Appellant's Chase Bank savings account # had a balance of $300.00. (Exhibit 8)

7. On , 2022, the Appellant's Navy Federal Credit Union checking account # had a balance of . (Exhibit 7: Navy Federal Credit Union account statement)

8. On 2022, the Appellant's Navy Federal Credit Union savings account # had a balance of $216.01. (Exhibit 7)

9. On , 2022, the Appellant's Navy Federal Credit union savings account # has a balance of $605.18. (Exhibit 7)

10. On , 2022, the Appellant's Regions Bank checking account # had an ending balance of $0.00. (Exhibit 9: Regions Bank statement acct #)

11. On , 2022, the Department sent the Appellant a W-1348LTC, Verification We Need form. The Department requested the Appellant provide a copy of her divorce decree and copies of the most recent bank account statements for the following accounts showing that the accounts haven been spent down to under the $1600.00 asset limit: Region Bank checking acct # , Region Bank checking account # , Region Bank savings acct # , Navy FCU checking account # , Navy FCU savings account ending in # , Navy FCU savings acct ending in , Chase savings account ending in # , and Chase Bank checking account ending in # The due date for the requested information was , 2022 and will take action on the application by , 2022. The Department indicated on the form that there is no eligibility for Title 19 Long Term Care Benefits are reduced below $1600.00. (Hearing Summary and Exhibit 3: W-1348LTC, , 2022)

12. On 2022, the Department determined it did not receive a copy of the Appellant's divorce decree or proof that the Appellant's accounts had been spent down to under the $1600.00 asset limit. (Department's testimony and Hearing Summary)

13. On [redacted] 2022, the Department determined the Appellant's bank account balances were as follows:

Acct # Checking	Acct # Savings	Acct # Checking	Acct # Savings	Acct # Savings	Acct # Checking	Acct # Savings	Acct # Savings	Acct #	savings
$228.27	$216.01	$0.00	$25.00	$605.18	$0.00	$390.25	$51.99	$9.16	$300.00
Total	**$1825.86**								

(Exhibit 5: Notice of Action, [redacted], 2022, Findings of Facts # 5 through 12)

14. On [redacted] 2022, the Department sent the Appellant a Notice of Action, discontinuing the Appellant's Husky C, Medicaid benefits effective [redacted], 2022, for the reason, "you did not return all the required proofs by the date we asked" and "the value of your assets is more than the amount allowed by this program". (Exhibit 5: Notice of Action, [redacted] 2022)

15. 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], 2022. Therefore, this decision is due not later than [redacted] 2022, and is therefore timely. (Hearing Record)

CONCLUSIONS OF LAW

1. Connecticut General Statute ("Conn. Gen. Stat.") § 17b-2(6) provides that 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. State Statute provides as follows:

   The Commissioner of Social Services shall administer the Connecticut home-care program for the elderly state-wide in order to prevent the institutionalization of elderly persons (1) who are recipients of medical assistance, (2) who are eligible for such assistance, (3) who would be eligible for medical assistance if residing in a nursing facility, or (4) who meet the criteria for the state-funded portion of the program under subsection (i) of this section. For purposes of this section, a long-term care facility is a facility that has been federally certified as a skilled nursing facility or intermediate care facility. The commissioner shall make any revisions in the state Medicaid plan required by Title XIX of the Social Security Act prior to implementing the program. The program shall be structured so that the net cost to the state for long-term facility care in combination with the services under the program shall not exceed the net

cost the state would have incurred without the program. The commissioner shall investigate the possibility of receiving federal funds for the program and shall apply for any necessary federal waivers. A recipient of services under the program, and the estate and legally liable relatives of the recipient, shall be responsible for reimbursement to the state for such services to the same extent required of a recipient of assistance under the state supplement program, medical assistance program, temporary family assistance program or supplemental nutrition assistance program. Only a United States citizen or a noncitizen who meets the citizenship requirements for eligibility under the Medicaid program shall be eligible for home-care services under this section, except a qualified alien, as defined in Section 431 of Public Law 104-193, admitted into the United States on or after August 22, 1996, or other lawfully residing immigrant alien determined eligible for services under this section prior to July 1, 1997, shall remain eligible for such services. Qualified aliens or other lawfully residing immigrant aliens not determined eligible prior to July 1, 1997, shall be eligible for services under this section subsequent to six months from establishing residency. Notwithstanding the provisions of this subsection, any qualified alien or other lawfully residing immigrant alien or alien who formerly held the status of permanently residing under color of law who is a victim of domestic violence or who has intellectual disability shall be eligible for assistance pursuant to this section. Qualified aliens, as defined in Section 431 of Public Law 104-193, or other lawfully residing immigrant aliens or aliens who formerly held the status of permanently residing under color of law shall be eligible for services under this section provided other conditions of eligibility are met.

Conn. Gen. Stat. § 17b-342(a)

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 2540.92(A) of the Uniform Policy Manual ("UPM") provides for the coverage group description for Individuals Receiving Home and Community Based Services.

   This group includes individual who:

   1. Would be eligible for MAABD if residing in a long term care facility (LTCF); and
   2. Qualify to receive home and community-based services under a waiver approved by the Centers for Medicare and Medicaid Services; and
   3. Would, without such services, require care in an LTCF.

5. "Individuals who desire to obtain aid must file a formal request for assistance." UPM § 1505.10(B)(1)

   "The formal request must be made in writing on the application form." UPM § 1505.10(B)(2)

   "All applicants are required to complete an application form, except as notice below in 1505.10.A.3." UPM § 1505.10(A)(1)

   The Department correctly determined the Appellant completed an application requesting W01 medical assistance and services under the CHCPE.

6. "For AFDC, AABD, and MA applications, except for the Medicaid coverage groups noted below in 1510.10 D.2, the date of application is considered to be the date that a signed application form is received by any office of the Department." UPM § 1505.10(D)(1)

   The Department correctly determined the date of application as [redacted], 2022.

7. Section 17b-342-1(a) of the Regulations of Connecticut State Agencies ("Regs., Conn. State Agencies") provides as follows:

   Scope. The purpose of sections 17b-342-1 to 17b-342-5, inclusive, of the Regulations of Connecticut State Agencies is to describe non-financial program requirements, services available and limitations under the Connecticut Home Care Program for Elders. This program provides home health services, community based services and assisted living services funded under a waiver to the Medicaid program and under a program funded with an appropriation by the General Assembly. The financial eligibility requirements for these three parts of the program differ and are specified under sections 2540.92 and 8040 to 8040.50, inclusive, of the Uniform Policy Manual of the Department of Social Services. This program includes all clients transferred from the following programs as of July 1, 1992: Promotion of Independent Living for the Elderly, Department on Aging Home Care Demonstration Project and Long Term Care Preadmission Screening and Community Based Services Program. Sections 17b-342-1 to 17b-342-5, inclusive, of the Regulations of Connecticut State Agencies also establish standards and requirements for access agencies and assisted living service agencies which operate under the Connecticut Home Care Program for Elders and the Connecticut Partnership for Long Term-Care.

8. State regulation provides as follows:

The purposes of the Connecticut Home Care Program are to:

A. Assess whether cost-effective home care services can be offered to elders who are at risk of institutionalization;
B. Determine, prior to admission to a nursing facility whether the elder does or does not need nursing facility services;
C. Authorize department payment for elders for nursing facility care or home care services if appropriate; and
D. Provide a full range of community based services, home care services and assisted living services to eligible individual who choose to remain in the community, if such services are appropriate, available and cost effective.

Regs., Conn. State Agencies § 17b-342-1(c)(1)

9. State regulation provides as follows:

The program application process shall consist of:

A. A financial eligibility determination in accordance with section 17b-10-1 of the Regulations of Connecticut State Agencies and the department's Uniform Policy Manual sections 8040 and 2540.
B. An initial determination as to the elder's needs, which shall include the category of services needed, the elder's functional eligibility and potential service options under the program. The initial determination shall be conducted by department staff based on completion or review of the health screen form.
   i. As a result of a review of the health screen form, the department shall determine:
      aa. whether the elderly person meets the functional level for admission to the program;
      bb. whether the elderly person needs care that would otherwise be provided in a nursing facility;
      cc. which program component and category of services may be appropriate and authorized for the person in the community;
      dd. whether an initial assessment is deemed appropriate. The assessment shall be conducted only after the elder or the elder's representative gives written consent. The assessment shall include, but not limited to: Explaining Program participation to the elder or the elder's representative; explaining client's rights and responsibilities; explaining the state's recovery policy; confirming client's functional eligibility and financial information; determining if the elder can be offered a cost-effective plan of care to enable the elder to remain in the

community without creating an unacceptable risk to the elder or others;

ee. whether the elderly person should be admitted to a nursing facility without an assessment; and

ff. whether the elderly person requires assistance in the completion of the financial application or other assistance to establish program eligibility and participation. This does not relinquish the elderly person's responsibility to comply with all program requirements necessary to determine eligibility and program participation.

ii. Initial determination as to the elder's needs, the category of services and functional level based on the health screen form shall be valid for sixty (60) days unless the department receives information which indicates that a person's condition has changed significantly.

iii. The health screen form shall also be used to verify recommendations for short term placement. For purposes of this section, a short term placement means a maximum stay of ninety (90) days for rehabilitative or recuperative care which is expected to result in the person's return to the community.

C. A referral to other sources of assistance, including authorization for admission to a nursing facility without an assessment if appropriate.

D. The Department shall send a screening outcome letter to the applicant to provide notice of the initial functional and financial screening determination issued and to advise the applicant of their rights.

Regs., Conn. State Agencies § 17b-342-1(c)(2)

10. State regulation provides in part as follows:

Pursuant to section 17b-10 of the Connecticut General Statutes, the Department of Social Services has prepared, and routinely updates, a state eligibility Policy Manual containing all departmental policy regulations and substantive procedures which affect the rights or procedures available to the public. In particular, the Policy Manual outlines the policies and procedures used by the department to implement and enforce federal and state laws for all of the programs which it administers.

The Policy Manual was adopted pursuant to the applicable provisions of the Uniform Administrative Procedure Act and any amendment to, or repeal of, the regulatory provisions contained therein would also be subject to UAPA procedural requirements. However, in accordance with Conn. Gen. Stat. 4-173(c), the full text will not be published herein. Instead, the following list of sections from the Table of Contents for the Policy Manual has been reproduced in order to assist persons interested in seeking further information with respect to the regulations:

Rights and Responsibilities	1000
The Eligibility Process	1500
Categorical Eligibility Requirements	2500
Procedural Eligibility Requirements	3500

Regs., Conn. State Agencies § 17b-10-1

11. "The Department must tell the assistance unit what the unit has to do to establish eligibility when the Department does not have sufficient information to make an eligibility determination." UPM § 1015.05(C)

    "The Department must inform the assistance unit regarding the eligibility requirements of the programs administered by the Department, and regarding the unit's rights and responsibilities." UPM § 1015.10(A)

    On [redacted] 2022 and [redacted] 2022, the Department correctly notified the Appellant of the eligibility requirements by sending a Verification We Need W1348LTC document requesting the Appellant provide a copy of her divorce decree and proof that her assets were spent down to under the $1600.00 limit.

12. "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 (cross reference: 1555)" UPM § 1010.05(A)(1)

    "The assistance unit must satisfy certain procedural requirements as described in Section 3500, including: cooperating with the Department as necessary. Cooperation includes: taking steps as required by the Department to complete the eligibility determination, periodic redetermination of eligibility, interim changes in eligibility or benefit level and Qualify Control reviews." UPM § 1010.05(C)(6)(a)

    "As a condition of eligibility, members of the assistance unit are required to cooperate in the initial application process and in reviews, including those generated by reported changes, redeterminations and Quality Control. (Cross reference: Eligibility Process 1500)." UPM § 3525.05

    Department policy provides for the specific requirements related to the eligibility process:

    1. Application process
       Applicants are responsible for cooperating with the Department in completing the application process by:

a. Fully completing and signing the application form; and
b. Responding to a scheduled appointment for an interview; and
c. Providing and verifying information as required.

UPM § 3525.05(A)(1)

13. Regulation provides as follows:

Persons seeking home care services may initiate a screening for program participation by submitting a Home Care Request Form or by calling the department. Individuals or client representatives are responsible for assuring that all information necessary for determining eligibility including, but not be limited to, completing and submitting a program financial application and providing any required verifications, is submitted on their behalf to the department. Authorization for home care services shall not be granted, nor a plan of care implemented, until complete information has been provided and a financial and functional eligibility determination has been issued by the department. Failure to provide required information and non-cooperation with any of the program requirements shall be grounds for denial or discontinuance from the Connecticut Home Care Program.

Conn. Agency Regs. § 17b-342-1(g)

14. "Prompt action is taken to determine eligibility on each application filed with the Department." UPM § 1505.35(A)(1)

"Reasonable processing standards are established to assure prompt action on applications." UPM § 1505.35(A)(2)

"The following promptness standards are established as maximum time periods for processing applications: forty-five calendar days for: AABD or MA applicants applying on the basis of age or blindness." UPM § 1505.35(C)(1)(c)

"Processing standards are not used as the basis for denying assistance. Denial results from the failure to meet or establish eligibility within the applicable time limit." UPM § 1505.35(D)(4)

"The first day of the processing period begins on the day following the date of application." UPM § 1505.35(C)(2)

On [redacted] 2022, the Department correctly denied the Appellant's application for Husky C – Home and Community Based Services

("W01") because she did not provide the requested proofs by the requested due date.

DECISION

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

Scott Zuckerman
Scott Zuckerman
Fair Hearing Officer

CC: Rachel Anderson, Operations Manager, DSS, New Haven Regional Office
Mathew Kalarickal, Operations Manager, DSS, New Haven Regional Office
Ralph Filek, Operations Manager, DSS, New Haven Regional Office
Abdaleh Mohamoud, DSS, Hartford Regional Office

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.