

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

██████████, 2022
Signature Confirmation

Case # ██████████
Client ID # ██████████
Request # 194045

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████, 2022, the Department of Social Services (the “Department”) sent ██████████ ██████████, (the “Appellant”) a Notice of Action (“NOA”) granting Medicaid benefits effective ██████████, 2022.

On ██████████, 2022, the Appellant requested an Administrative Hearing to contest the effective date of Medicaid benefits as determined by the Department.

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, 17-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, OLCRAH held an Administrative Hearing.

The following individuals participated at the hearing in-person at the [REDACTED] Regional office:

[REDACTED], Appellant's Attorney
[REDACTED], Appellant's Power of Attorney ("POA")
[REDACTED], Appellant's [REDACTED] Care Manager
Johnathan Hill, Department Observer/Regional Office Host
Jessica Gulianello, Hearing Officer

The following individuals participated at the hearing telephonically by phone:

Sharon Harris, Department's Representative
Meagan Finlayson, Department's Representative

The Applicant is currently institutionalized at [REDACTED] and was not present at the Administrative Hearing.

The Hearing record remained open to allow both parties time to submit additional information. Additional documents were received and on [REDACTED], 2022, the hearing record closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly determined the effective start date of coverage under the Husky C Long Term Care ("L01") Medicaid program.

FINDINGS OF FACT

1. [REDACTED] was appointed as her Power of Attorney in [REDACTED] 2020. (POA Testimony)
2. The Appellant was residing at [REDACTED]. (Attorney Testimony)
3. On [REDACTED], 2021, the Department received an online application "ONAP" requesting Long Term Services and Medical Benefits/Health Care Coverage for the Appellant (Exhibit A: ONAP, Hearing Record)
4. On [REDACTED], 2021, the ONAP was assigned to a long-term care eligibility worker for processing. (Exhibit F: Case Notes, [REDACTED]/2021)
5. On [REDACTED], 2021, the Department registered the ONAP in the online eligibility management system, ("ImpaCT"). (Exhibit F: Case Notes, [REDACTED]/2021)
6. The Appellant is [REDACTED] years old (D.O.B [REDACTED]). (Exhibit A: ONAP)

7. The Appellant has a diagnosis of [REDACTED]. (Exhibit A: ONAP, Attorney Testimony)
8. The Appellant has no income. (Hearing Record)
9. The Appellant has never been married. (Hearing Record)
10. The Appellant owned liquid assets that were primarily funded through [REDACTED] that was distributed [REDACTED]. (Attorney's Testimony)
11. The Department sent multiple Verification We Need ("W1348") requests for documents including but not limited to statements for the Appellant's bank accounts with [REDACTED] Bank [REDACTED], a Certificate of Deposit ("CD") with [REDACTED] Bank, bonds, account closure(s), a [REDACTED] funeral contract, proof of questionable withdrawals and proof of how the monies were spent over the time period of [REDACTED] 2021 through [REDACTED] 2021. The Department received documents on behalf of the Appellant in response to these requests. (Exhibit F: Case Notes, [REDACTED]/2021-[REDACTED]/2021, Department's Testimony)
12. On [REDACTED], 2021, the Appellant was admitted to [REDACTED] ("the Facility"), Date of Institutionalization ("DOI"). (Hearing Record)
13. On [REDACTED], 2021, the Department determined the Appellant's assets totaled \$85,908.56 as of [REDACTED], 2021. (Exhibit F: Case Notes, [REDACTED]/21)

Bank:	Balance:
[REDACTED] Bank [REDACTED]	\$60,000
[REDACTED] Bank of [REDACTED]	\$850
[REDACTED] Bank	\$25,058.56

14. The asset limit for Medicaid is \$1,600. (Hearing Record)
15. On [REDACTED], 2021, the Department denied the ONAP citing that the Appellant's countable assets exceeded the Medicaid asset limit of \$1,600. (Exhibit F: Case Notes, [REDACTED]/2021, Department's Testimony)
16. On or about [REDACTED], 2022, the Facility contacted the Department concerning Medicaid coverage for the Appellant. (Exhibit F: Case Notes: [REDACTED]/22)
17. The Department historically re-evaluated the Appellant's eligibility for L01 Medicaid without receipt of a new application. (Department's Testimony)
18. The Department issued additional W1348 requests for more information over the period of [REDACTED], 2022, through [REDACTED], 2022. (Exhibit F: Case Notes: [REDACTED]/22-[REDACTED]/22, Exhibit G: W1348's)

19. On [REDACTED], 2022, the Department reviewed the additional documents received and determined the Appellant to be eligible for Medicaid. The Department issued a NOA advising the POA that the Appellant was determined eligible for L01 Medicaid with an effective coverage start date of [REDACTED], 2022. (Exhibit D1: NOA, [REDACTED]/22)
20. On [REDACTED], 2022, the OLCRAH received a request for an Administrative Hearing. (Exhibit 1: Hearing Request)
21. On [REDACTED], 2022, the Department re-reviewed the Appellant's case. The Department confirmed [REDACTED] the bank accounts had been closed in [REDACTED] 2021. The Department issued an updated NOA advising the Appellant was determined eligible for L01 Medicaid with an effective coverage start date of [REDACTED], 2021. (Exhibit D3: NOA, [REDACTED]/22, Department's Testimony)
22. The Appellant and the POA were co-owners of the [REDACTED] bank accounts in question. The balances of the [REDACTED] accounts with [REDACTED] Bank [REDACTED] during the period of [REDACTED] 2021 through [REDACTED] 2021 were verified as follows:
(Exhibit: B1 & B2: Bank Statements)

Month	Account # [REDACTED] ending balance	Account # [REDACTED] ending balance
[REDACTED] 2021	\$1,887.79	\$1,600
[REDACTED] 2021	\$4,528.10	\$1,600
[REDACTED] 2021	\$3,092.04	\$1,600
[REDACTED] 2021	\$3,092.04	\$1,600
[REDACTED] 2021	Closed [REDACTED]/21	\$1,600

23. The Department did not impose a transfer of asset penalty. (Department's Testimony)
24. The Facility did not issue a Notice of Intent to Discharge. (Attorney's Testimony)
25. The issuance of this decision is timely under section 17b-61(a) of Connecticut General Statutes, 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. This decision, therefore, was due no later than [REDACTED], 2022. However, the Hearing record which had anticipated to close on [REDACTED], 2022, did not close for the admission of evidence until [REDACTED], 2022. Because this [REDACTED] delay in the close of the record arose from the request of the Appellant's Attorney, this final decision was not due until [REDACTED], 2022, and is therefore timely. (Hearing Record)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes, authorizes the Department of Social Services to administer the Medicaid program pursuant to Title XIX of the Social Security Act.

The Department has the authority to administer Medicaid.

2. UPM § 4005.05 (A)(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.
3. 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.
4. UPM § 4015.05 (B)(1) provides that the burden is on the assistance to demonstrate that an asset is inaccessible. For all programs except Food Stamps, in order for an asset to be considered inaccessible, the assistance unit must cooperate with the Department as directed, in attempting to gain access to the asset.

The Department correctly determined that the bank accounts in question with the [REDACTED] Bank [REDACTED] as available assets as the Appellant. The POA had the legal right, authority, or power to obtain the asset or have it applied for the Appellant's general medical support. The POA also had the ability to gain access to the policy.

5. UPM § 4030.05 (B) provides for treatment of assets in 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.
6. UPM § 4005.05 (D)(2) 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 § 4005.10 (A)(2)(a) provides that the Medicaid asset limit for a needs group of one is \$1,600.00 per month.

The Department correctly determined that the Appellant's total liquid assets in the [REDACTED] bank accounts in question with the [REDACTED] Bank [REDACTED] exceeded the

Medicaid asset limit for the contested months of [REDACTED] 2021, [REDACTED] 2021, [REDACTED] 2021 and [REDACTED] 2021.

The Department correctly determined the Appellant was therefore ineligible for Medicaid for the period of [REDACTED] 2021 through [REDACTED] 2021.

8. UPM § 3029.25 (B) provides Undue Hardship Conditions exist when an individual would be in danger of losing payment for LTCF or equivalent services described at 3029.05 B solely because of the imposition of a penalty period then the Department does not impose under certain conditions.

Undue Hardship does not exist as the Department did not impose a penalty period.

DISCUSSION

After reviewing the evidence and testimony presented, I find the Department correctly determined the effective date of the Applicant's Medical assistance.

Regulations provide that eligibility for the Medicaid program begins the first day of the month in which the assistance unit reduces its equity in counted assets to within the asset limit. The record reflects that the Applicant's assets were not reduced to within the Medicaid limits for the months of [REDACTED] 2021 through [REDACTED] 2021; as the funds in the bank accounts, owned by the Applicant exceeded the Medicaid asset limit.

The Appellant's attorney argued that the Appellant has accrued enormous medical bills as a result of the denied Medicaid months. He further argued that the POA was [REDACTED] was unfamiliar with the Appellant's accounts, she had issues locating documents, and she was unfamiliar with the Uniform Policy Manual ("UPM"). However, the POA was named on said accounts for the months in question. UPM provides that an available asset is one that an individual has the legal right, authority, or power to obtain, or to have it applied for his or her general or medical support. The POA had the ability to access the assets and apply them for the Applicant's care regardless of whether or not she actually acted on that ability. Furthermore, regardless of whether or not the POA was aware of the value of an asset, the bank accounts were still legally owned by the Appellant and counted toward Medicaid eligibility.

The Attorney argued for the removal of the imposed penalty and declared undue hardship. The Department provided testimony confirming a transfer of asset penalty was not imposed. Therefore, I find the attorney's argument for undue hardship to be invalid.

DECISION

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

Jessica Gulianello

Jessica Gulianello
Hearing Officer

CC: Megan M. Finlayson – ESS, Sharon Harris – ESW, [REDACTED] Regional Office
Tim Latifi – SSOM, Robert Stewart – SSOM, [REDACTED] Regional Office
Jill Sweeney - SSOM, [REDACTED] 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 060105-3725.

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 06105-3725. 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.