

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

████████████████████
SIGNATURE CONFIRMATION

Case ID # ██████████
Client ID # ██████████
Request # 195323

NOTICE OF DECISION

PARTY

██████████
██
████████████████████
██

PROCEDURAL BACKGROUND

On ██████████, the Department of Social Services (the “Department”) sent ██████████ (the “Appellant”) a W1348M Worker Generated Request for Proofs requesting information required to complete the Appellant’s HUSKY C Long Term Support Services (“LTSS”) renewal.

On ██████████, the Appellant’s representative requested an administrative hearing based on the Department’s request for information on a structured annuity.

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

On ██████████ the Appellant’s Authorized Representative requested to reschedule the administrative hearing.

On ██████████, OLCRAH issued a notice scheduling the administrative hearing for ██████████

On ██████████, in accordance with sections 17b-60, 17b-61, and 4-176e to 4-184, inclusive of the Connecticut General Statutes, OLCRAH held an administrative hearing via a video connection to the Norwich Regional office.

The following individuals were present at the hearing:

██████████, Appellant's Authorized Representative and Conservator
 Vanessa Vasquez, Department's Representative via telephone
 Brad Wheeler, Department's Observer
 Sara Hart, Hearing Officer

The Appellant was not present at the administrative hearing due to his institutionalization.

The hearing record remained open for the Department and the Appellant's representative to submit additional evidence. The Department and the Appellant's representative submitted evidence, the Appellant's Representative responded on ██████████, and the hearing record closed on ██████████

STATEMENT OF THE ISSUE

The issue is whether the Department correctly discontinued the Appellant's HUSKY C LTSS.

FINDINGS OF FACT

1. The Appellant is a resident of a Long Term Care Facility ("LTCF") and a recipient of HUSKY C LTSS. The Department certified his benefit for the period of ██████████, through ██████████. (*Exhibit 4: W1ERL Notice of Renewal of Eligibility, Hearing Record*)
2. On ██████████, the Appellant's LTCF representative submitted a completed W1ER Renewal form to the Department. (*Exhibit 5: Case Notes, Exhibit 3: W1ER*)
3. On ██████████ the Department issued the Appellant a Worker Generated Request for Proofs ("W1348M") requesting the following "Please submit the legal documents showing the structured settlement award determined by the court for review by the DSS legal department." The notice provided a due date of ██████████. (*Exhibit 5, Exhibit 14: W1348M ██████████*)
4. On ██████████, the Appellant's representative requested an administrative hearing. (*Hearing Record*)
5. On ██████████, the Department discontinued the Appellant's HUSKY C LTSS. (*Exhibit 5*)
6. On ██████████, the Department reinstated the Appellant's HUSKY C LTSS. (*Exhibit 5*)

7. On [REDACTED], the Department issued the Appellant a Notice of Action (“NOA”) approving the Appellant’s HUSKY C LTSS for the benefit period of [REDACTED], through [REDACTED]. (*Exhibit 1: NOA [REDACTED]*)
8. The Department fully restored the Appellant’s HUSKY C LTSS, effective [REDACTED] with no lapse in coverage. (*Department’s Testimony, Exhibit 7: Impact EDG Status Page*)
9. The Department did not discontinue the Appellant’s LTSS benefits prior to the Appellant’s representative’s [REDACTED] request for an administrative hearing. (*Hearing Record*)
10. The issuance of this decision is timely under Section 17b-61(a) of the Connecticut General Statutes, which requires the agency to issue a decision within 90 days of the request for an administrative hearing. The Appellant’s representative requested an administrative hearing on [REDACTED], with this decision due no later than [REDACTED] however, due to a 31-day delay caused by the rescheduling of the hearing and extending the closing of the record to [REDACTED], this decision is due no later than [REDACTED]. (*Record*)

CONCLUSIONS OF LAW

1. Section 17b-2(6) of the Connecticut General Statutes 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.

The Department has the authority to administer and determine eligibility for the HUSKY C LTSS Medicaid program.

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, 178 (1994) (citing Conn. Gen. Stat. § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A.2d 712 (1990)).
3. UPM § 1570.25(F) provides for matters considered at the Fair Hearing and states that the Department considers the following issues:
 1. an action by the Department or failure by the Department to act, within the appropriate time limits described in this section, on the application for benefits, including:
 - a. undue delay in reaching a decision on eligibility or in providing benefits;
 - b. refusal to consider a request for or undue delay in making an adjustment in the amount of benefits; and
 - c. discontinuance, termination, or reduction of benefits.

The Department did not discontinue the Appellant's LTSS benefits prior to the Appellant's request for a hearing; therefore, there is no issue to be considered at a Fair Hearing.

DECISION

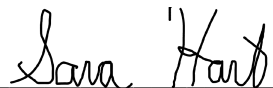
The Appellant's appeal is **DISMISSED**.

DISCUSSION

On [REDACTED], the Appellant's representative requested the administrative hearing. At the time of the hearing request, the Department had not taken any adverse action to alter the Appellant's HUSKY C LTSS coverage. The Appellant's representative requested a hearing based on the Department's request for information.

After the request for a hearing, the Department discontinued the Appellant's LTSS coverage and then restored the coverage. On [REDACTED], the Department notified the Appellant of this action, as well as provided testimony and evidence at the hearing that the Appellant did not incur any lapse in HUSKY C LTSS.

At the hearing, the Appellant's representative provided considerable testimony and evidence regarding his dissatisfaction with the Department's treatment of the Appellant's [REDACTED] structured settlement. The Department had not taken any action on the treatment of the structured annuity prior to the Appellant's representative's request for a hearing. The Appellant's representative must request a separate hearing if he wishes to contest the Department's treatment of the structured settlement.



Sara Hart
Hearing Officer

Cc: Vanessa Vasquez, Department Representative, Willimantic Regional Office
Christine Moffitt, Department Representative, Willimantic Regional Office
Tonya Beckford, Operations Manager, Willimantic 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, law, and 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 requested 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 the 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 the 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 if 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 to 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 her designee following §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.