

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 # ██████████
CLIENT # ██████████
REQUEST # 211703

NOTICE OF DECISION

PARTY

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

On ██████████, the Department of Social Services (the "Department") issued a notice of action ("NOA") denying ██████████ (the "Applicant"), HUSKY C-Long Term Care Facility Coverage ("HUSKY C LTC") benefits effective ██████████, due to excess assets.

On ██████████, ██████████, the Applicant's son (the "Appellant") requested an administrative hearing to contest the denial of the Applicant's HUSKY C LTC application.

On ██████████, the Office of Legal Counsel, Regulations, and Administrative Hearings ("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 video conference to the Waterbury Regional Office. The following individuals were present at the hearing:

██████████, Appellant
Hazel Rodriguez, Department's Representative
Sara Hart, Hearing Officer

The Applicant, ██████████, expired on ██████████, and was not present at the administrative hearing.

STATEMENT OF THE ISSUE

The issue is whether the Department correctly denied the Applicant's HUSKY C LTC application.

FINDINGS OF FACT

1. On ██████████, the Applicant was admitted to ██████████, a Skilled Nursing Facility. *(Hearing Record, Department Testimony)*
2. On ██████████ the Applicant passed away. *(Hearing Record. Appellant's Testimony)*
3. The Applicant was █ years old (DOB ██████████) and widowed at the time of her death. *(Hearing Record)*
4. On ██████████, the owner of record for ██████████ was transferred from the Applicant to the Applicant's estate. *(Exhibit 3: Cheshire Property Card)*
5. ██████████ ██████████ (the "Appellant") is the Applicant's son and Authorized Representative ("AREP"). *(Hearing Record)*
6. On ██████████, the Appellant submitted an application for HUSKY C LTC coverage to the Department on behalf of the Applicant. The application noted the Applicant's assets to be a ██████████ checking account and a primary residence located at ██████████ *(Exhibit 1: W1LTC)*
7. The Applicant owns a ██████████ Bank checking account and savings account with the following account balances:

	██████████	██████████	██████████	██████████
Checking	726.70	945.28	1516.00	2252.86
Savings	1394.34	1394.35	1394.37	1344.38
Total	2121.04	2339.63	2910.37	3957.24

(Exhibit 17: ██████████ Bank Statements)

8. The Appellant resided with the Applicant at [REDACTED] to her institutionalization and provided property maintenance in lieu of rent. (*Hearing Record, Exhibit 13: Appellant Statement* [REDACTED])
9. The Department determined the value of the Applicant's home as \$138,020.00 based on a review of the town of [REDACTED] online assessor database. (*Department's Testimony, Exhibit 3*)
10. The asset limit for the HUSKY C-LTC program for a household of one is \$1,600.00. (*Department's Testimony*)
11. The Appellant is seeking HUSKY C LTC coverage for the Applicant beginning [REDACTED] through [REDACTED] (*Exhibit 2: Case Notes, Hearing Record*)
12. On [REDACTED], the Department processed the Applicant's [REDACTED] HUSKY C LTC application and issued a NOA denying HUSKY C LTC coverage for the month of [REDACTED] because the Applicant's assets exceeded the program limits. (*Exhibit 4: NOA* [REDACTED])
13. The issuance of this decision is timely under Connecticut General Statutes 17b-61(a), which requires that the Department issue a decision within 90 days of the request for an administrative hearing. The Appellant requested an administrative hearing on [REDACTED]. Therefore, this decision is due no later than [REDACTED] and is timely.

CONCLUSIONS OF LAW

1. Section 17b-260 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the 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 § 1505.10(B) provides in part for filing an application; Individuals who desire to obtain aid must file a formal request for assistance. The formal request must be made in writing on the application form. At a minimum, the following information must be presented: a. the full name and address of the applicant; and b. the signature of the applicant, caretaker relative or other individual who is requesting assistance on behalf of the applicant.

UPM § 1505.10(D)(1) provides for date of application and states that 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.

The Department correctly determined the Appellant filed a formal request for assistance and applied for HUSKY C LTC on behalf of the Applicant on [REDACTED]

4. UPM § 4005.05(A) provides that for every program administered by the Department there is a definite asset limit.

UPM § 4000.01 defines asset limit as 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

UPM § 4005.10(A)(2)(a) provides that the asset limit for Medicaid for a needs group of one is \$1,600.00.

The Department correctly determined the HUSKY C LTC asset limit was \$1,600.00.

5. UPM § 4030 provides that the Department evaluates all types of assets available to the assistance unit when determining the unit's eligibility for benefits.

UPM § 4000.01 provides the record owner of an asset is the person who has apparent ownership interest as shown on a title, registration, or other documentation.

The Department correctly determined the Applicant as the record owner of [REDACTED], and [REDACTED] checking and savings accounts.

6. UPM § 4030.20(A)(1) provides in relevant part for the treatment of home property. Home property owned by a member of the assistance unit is not counted in the determination of the unit's eligibility for assistance as long as the unit uses the property as its principal residence.

UPM § 4005.05(B)(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: available to the unit; or deemed available to the assistance unit.

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.

Section 17b-261(c) of the Connecticut General Statutes provides in part that 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.

The Department correctly determined the Applicant's home property as an available asset in determining HUSKY C LTC eligibility.

7. UPM § 4000.01 provides fair market value is the amount at which an asset can be sold on the open market in the geographic area involved at the time of the sale as a result of reasonable, bona fide efforts to gain the highest possible price in an arm's-length transaction.

The Department correctly determined the fair market value of the Applicant's home property.

8. UPM § 4005.05(D) 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.

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

UPM § 4005.15 provides that 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.

The Department correctly denied the Applicant's HUSKY C-LTC on [REDACTED] because her assets exceeded the \$1,600.00 asset limit.

9. UPM § 1560.10(A) provides in part for the beginning date of assistance for Medicaid as: the first day of the first, second or third month immediately preceding the month in which the Department receives a signed application when all non-procedural eligibility requirements are met and covered medical services are received at any time during that particular month.

Title 42 of the Code of Federal Regulations § 435.915(a) provides for effective date. The agency must make eligibility for Medicaid effective no later than the third month before the month of application if the individual (1) Received Medicaid services, at any time during that period, of a type covered under the plan; and (2) Would have been eligible for Medicaid at the time he received the services if he had applied (or someone had applied for him), regardless of whether the individual is alive when application for Medicaid is made.

The third month immediately preceding [REDACTED] was [REDACTED]. The Applicant passed away on [REDACTED], and was deceased prior to the three-month retroactive period.

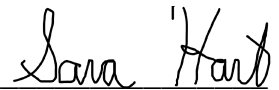
DISCUSSION

The Appellant argued that the Applicant's home should not be considered in the determination of HUSKY C LTC eligibility because the Appellant resided in the home and cared for the Applicant and the property prior to the Applicant's institutionalization. The property remained in the Applicant's name and there was no evidence in the hearing record of any attempt to transfer the property to the Appellant before the Applicant's passing and the Department correctly concluded that the property was an available asset to the Applicant.

Additionally, the Appellant testified that he was seeking HUSKY C LTC coverage for the Applicant for the period of [REDACTED] through [REDACTED]. Regulations provide the retroactive period for consideration (*if the Applicant had otherwise been determined HUSKY C LTC eligible*) would have been the three months preceding the [REDACTED], application. These months of [REDACTED] were after the Applicant passed away on [REDACTED].

DECISION

The Appellant's appeal is DENIED.



Sara Hart
Hearing Officer

Cc: Hazel Rodriguez, Department Representative, Waterbury Regional Office
Katarzyna Olechowska, Operations Manager, Waterbury Regional Office
Randalynn Muzzio, Operations Manager, Waterbury Regional Office
Alex Sirios, Operations Manager, Waterbury 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.

