

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

██████████, 2023
SIGNATURE CONFIRMATION

CASE # ██████████
CLIENT # ██████████
REQUEST # ██████████

NOTICE OF DECISION

PARTY

██████████
██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████, 2023, the Department of Social Services (the “Department”) sent a Notice of Action (“NOA”) addressed to ██████████ (the “Appellant”) regarding the denial of her application for “HUSKY C-Long Term Care Facility Residents Eligible Under Special Income Level” coverage (referred to as “L01”) for the months of ██████████ 2023 and ██████████ 2023 due to the value of her countable assets exceeding this program’s asset limit and the approval of said coverage effective ██████████ 2023.

On ██████████ 2023, the Appellant’s daughter Susan Oslund, requested an administrative hearing on behalf of the Appellant to appeal the effective date of approval of L01 coverage.

On ██████████, 2023, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████, 2023, to be held telephonically at the POA’s request.

On [REDACTED] 2023, 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 with the participation of the following individuals:

[REDACTED], Appellant's Daughter
 Tamara Davis, Department's Representative
 Joseph Alexander, Administrative Hearing Officer

The Appellant passed away prior to the date of the hearing therefore she was not present. The Appellant's interests were represented through her daughter.

STATEMENT OF THE ISSUE

The first issue to be decided is whether the Department correctly determined the Appellant's countable assets exceeded the HUSKY C asset limit making the Appellant ineligible for HUSKY C Medicaid benefits for the months of [REDACTED] 2023 and [REDACTED] 2023.

The second issue to be decided is whether the Department's decision to approve HUSKY C coverage effective [REDACTED] 2023, was correct.

FINDINGS OF FACT

1. On [REDACTED], 2022, the Appellant was admitted to [REDACTED] (the "Facility"). (Exhibit 1: Admission Notice)
2. On [REDACTED], 2023, the Department received an Online Application ("ONAP") requesting long-term services and support benefits/coverage for the Appellant only. The ONAP listed checking accounts with [REDACTED] and [REDACTED] and a money market account with [REDACTED] as the Appellant's assets. (Exhibit. 1: Online Application submitted [REDACTED], 2023)
3. On [REDACTED], 2023, the Department created an asset assessment worksheet (displayed below) utilizing the asset information submitted with the ONAP.

<u>Bank</u>	<u>Acct #</u>	<u>Acct Holder</u>	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	\$1,263.56	\$0.00	\$0.00	\$0.00	\$0.00
[REDACTED]	[REDACTED]	[REDACTED]	\$22,014.17	\$4,485.79	\$6,460.79	\$8,435.79	\$761.00
[REDACTED]	[REDACTED]	[REDACTED]	\$16,022.45	\$14,329.50	\$3,336.41	\$0.00	\$0.00
[REDACTED]	[REDACTED]	[REDACTED]	\$516.50	\$105.25	\$686.41	\$3,562.82	\$0.00

Total			\$39,816	\$18,920	\$10,483	\$11,998	\$761.
			.68	.54	.61	.61	00

(Exhibit 4: Asset Assessment Worksheet, Hearing Record)

4. On [REDACTED] 2023, the Department issued a “W-1348M Worker Generated Request for Proofs” letter requesting information pertaining to the Appellant’s assets, transactions of \$5,000 or more, additional income, Skilled Nursing Facility (“SNF”) admission and the reduction of the Appellant’s assets. (Exhibit 2: Case Note dated [REDACTED] 2023, Hearing Record)
5. The Department sent additional requests for information directly to the Facility. (Department Representative Testimony)
6. On [REDACTED] 2023, the Appellant passed away. (Exhibit 2: Case Note dated [REDACTED], 2023, Hearing Record)
7. On [REDACTED], 2023, the Department finalized processing of the Appellant’s ONAP as the last of the required verifications were received on [REDACTED] 2023. The Department determined the Appellant was eligible for assistance beginning [REDACTED] 2023, the first month the value of her countable assets (\$761.00) were below the HUSKY C asset limit (\$1,600.00). (Exhibit 2: Case Note dated [REDACTED], 2023, Exhibit 3: Liquid Asset Details, Exhibit 4: Asset Assessment Worksheet, Exhibit 6: Notice of Action dated [REDACTED], 2023)
8. The Appellant’s daughter does not dispute the asset amounts calculated by the Department for the [REDACTED] and [REDACTED] accounts for the months of [REDACTED] 2022 through [REDACTED] 2023. (POA Testimony)
9. On [REDACTED] 2023, the Appellant’s daughter requested an administrative hearing to dispute the effective date of approval of HUSKY C coverage. (Hearing Record)
10. The issuance of this decision is timely under Connecticut General Statutes 17b-61(a), which requires that a hearing be held, and a decision issued within [REDACTED] days of the request for an administrative hearing. The hearing request was received on [REDACTED] 2023, making this decision due no later than [REDACTED] 2023.

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 and oversee Medicaid.

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, 177 (1994) (citing Conn. Gen. Stat. 17-3f(c) [now 17b-10]; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A. 2d 712(1990)).
3. UPM § 1015.10 (A) provides that 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.

The Department correctly issued requests for information directly to the Appellant as well as to the designated Facility contact(s) and continued to do so throughout the eligibility determination process as information was received following each request.

4. UPM § 4030 provides that the Department evaluates all types of assets available to the assistance unit when determining the unit's eligibility for benefits.
5. UPM § 4030.05 A. provides for Types of Bank Account: Bank accounts include the following. This list is not all inclusive. 1. Savings account; 2. Checking account.

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.

The Department correctly determined the Appellant's [REDACTED] and [REDACTED] accounts were considered countable assets when determining eligibility for HUSKY C Medicaid coverage.

6. 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.

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.

UPM § 4015.05 (B)(1)(2) 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 the Appellant's [REDACTED] and [REDACTED] accounts were both available and accessible to the Appellant as her name was listed as one of the holders of said accounts.

7. 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.

UPM § 4099.05 (A)(B) provides that the assistance unit must verify its equity in counted assets and must verify that it has properly reduced its equity in counted assets to within the program's limit.

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

UPM § 4005.15 (A) (2) provides that in the Medicaid program at the time of application, the assistance unit is ineligible until the first day of the month in which it reduces its equity in counted assets to within the asset limit.

The Department correctly determined the Appellant's assets totaling \$10,483.61 for the month of [REDACTED] 2023 exceeded the \$1,600.00 asset limit.

The Department correctly determined the Appellant's assets totaling \$11,998.61 for the month of [REDACTED] 2023 exceeded the \$1,600.00 asset limit.

The Department correctly determined the Appellant's assets totaling \$761.00 for the month of [REDACTED] 2023 did not exceed the \$1,600.00 asset limit.

The Department correctly denied HUSKY C coverage for the months of [REDACTED] 2023 and [REDACTED] 2023.

The Department correctly approved HUSKY C coverage effective [REDACTED] 1, 2023, the first day of the month in which the Appellant's countable assets were reduced to within the asset limit.

Discussion

Based on the Appellant's daughter's testimony, it appears her dispute is not necessarily with the amount of the Appellant's countable assets and during what month(s) said assets were spent down below the required amount necessary for HUSKY C approval, rather she is taking issue with the Department sending the various requests for information directly to the Appellant/designated Facility representative as opposed to her. The Appellant's daughter testified that while she was informed of the requested information, there was often a delay which ultimately led to a delay in the spending down of the Appellant's assets; had she been notified at the same time as the Appellant/Facility she believes the Appellant's assets would have been spent down sooner thus allowing the Department to approve HUSKY C coverage prior to [REDACTED] 2023, as she is seeking approval effective [REDACTED] 2023. While the undersigned hearing officer can sympathize with her, the Department did comply with the requirement to inform the assistance unit of the eligibility requirements as specified in UPM § 1015.10 (A).

DECISION

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

Joseph Alexander
Joseph Alexander
Administrative Hearing Officer

CC: Sarah Chmielecki, Operations Manager, DSS, New Haven Regional Office
Tim Latifi, Operations Manager, DSS, New Haven Regional Office
Ralph Filek, Field Operations, DSS, New Haven Regional Office
Tamara Davis, Administrative Hearing Liaison, DSS, New Haven 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, what new evidence has been discovered or what 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 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.