

STATE OF CONNECTICUT  
DEPARTMENT OF SOCIAL SERVICES  
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS  
55 FARMINGTON AVENUE  
HARTFORD, CT 06105-3730

██████████ 2016  
Signature Confirmation

Client ID # ██████████  
Request # 743370

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2015, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA) discontinuing her benefits under the Medicaid for the Aged, Blind and Disabled ("MAABD") Spenddown program, also known as HUSKY C, effective ██████████ 2016.

On ██████████ 2015, the Appellant requested an administrative hearing to contest the Department's decision to discontinue such benefits.

On ██████████ 2016, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████ 2016.

On ██████████ 2016, OLCRAH issued a notice rescheduling the administrative hearing for ██████████ 2016.

On ██████████ 2016, 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 were present at the hearing:

██████████ the Appellant  
D'Asia Newman, Department's representative  
Maureen Foley-Roy, Hearing Officer

The hearing record was held open for the submission of additional evidence. The record closed on [REDACTED] 2016.

This decision pertains solely to the Medicaid benefits. A decision regarding the Supplemental Nutrition Assistance Program benefits was issued separately.

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether the Department's decision to discontinue the Appellant's benefits under the MAABD program was correct.

### **FINDINGS OF FACT**

1. On [REDACTED] 2015, the Department received a redetermination form from the Appellant. (Exhibit B: Case Narrative)
2. The Appellant's only asset is her bank account is at Webster bank. It is for the purpose of directly depositing her monthly Social Security and pension benefits. (Exhibit C: Letter from Webster Bank and Appellant's testimony)
3. The Appellant's only sources of income are her monthly Social Security benefit of \$734.00 and pension of \$232.33 per month. (Appellant's testimony, Exhibit C)
4. In [REDACTED] of 2015, the Department contacted a Webster Bank representative by telephone. The representative verified that the Appellant's bank balance was \$2563 at that time. (Exhibit B)
5. The Department deducted the amount of the monthly Social Security benefit from the Appellant's bank balance and considered the remaining amount of \$1829 as the Appellant's available assets. (Exhibit B)
6. On [REDACTED] 2015, the Department discontinued the Appellant's HUSKY C MAABD Spenddown benefits effective [REDACTED] 2016 because the value of her assets exceeded the allowable limit. (Exhibit A: Notice of Discontinuance)

### **CONCLUSIONS OF LAW**

1. Section 17b-2 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the Medicaid program.

2. Uniform Policy Manual ("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:
  - 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 § 4005.10.A 2 a provides that in the MAABD program, the asset limit is \$1600 for a needs group of one person.
5. UPM § 4030.05 (C) provides that money which is received as income during a month and deposited into an account during the month is not considered an asset for that month, unless the source of the money is an income tax refund, cash received upon the transfer or sale of property; or a security deposit returned by the landlord.
6. The Department was correct when it subtracted the amount of the Appellant's directly deposited Social Security benefit from the bank balance reported by the bank representative to obtain the amount of the Appellant's available assets.
7. The Department was incorrect when it did not subtract the amount of the Appellant's directly deposited pension benefit from the bank balance to obtain the amount of the Appellant's available assets.
8. The Appellant had countable assets of \$1596.67 (\$2563, balance in account - \$734 [Social Security benefit deposit] - \$232.33 [pension benefit deposit]).
9. The Department was incorrect when it determined that the Appellant's assets of \$1596.67 exceeded the limit of \$1600.
10. The Department was incorrect when it discontinued the Appellant's MAABD spenddown benefits because her assets exceeded the allowable limit.

### **DISCUSSION**

Regulation provides that the Department may not consider a payment both income and an asset in the same month. In a case such as the Appellant's, wherein her benefits are directly deposited into her bank account each month, her income must be subtracted from the bank balance in order to obtain the correct amount of countable assets. The Department acted correctly in subtracting the amount of the Social Security benefit; however, it failed to apply

the same principal to the pension benefit. Once the Appellant's entire monthly income was subtracted from her bank balance, the remaining assets did not exceed the \$1600 limit.

### **DECISION**

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

### **ORDER**

The Department is ordered to reopen the Appellant's MAABD HUSKY C benefits effective [REDACTED] 2016 and subtract the Appellant's monthly income from her bank balance when determining her assets. Compliance with this issue is due by [REDACTED] 2016 and shall consist of verification that the Appellant's MAABD HUSKY C Spenddown benefits were reopened effective [REDACTED] 2016.

*Maureen Foley-Roy*  
Maureen Foley-Roy  
Hearing Officer

PC: Brian Sexton, Lisa Wells, Operations Managers, DSS R. O. #20, New Haven  
D'Asia Newman, Fair Hearing Liaison, DSS #20, New Haven

### **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 06105-3730.

### **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. 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.