

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

REQUEST #783375

██████████ 2016
SIGNATURE CONFIRMATION

CLIENT ID # ██████████

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

The Department of Social Services (the "Department"), issued a Notice of Denial to ██████████ (the "Appellant"). The Notice stated that the Appellant's application for emergency medical assistance under the Husky D-Medicaid for Low Income Adults ("MLIA") program had been denied, because the Appellant was not a citizen, permanent resident, or other eligible status, and based the hospital documentation provided, the Department's medical review team did not find the services meeting the regulatory criteria for emergency services.

On ██████████ 2016, the Appellant's Representative (██████████) requested an administrative hearing on behalf of the Appellant to contest the Department's denial of his request for emergency medical assistance under the Husky D-MLIA program.

On ██████████ 2016, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice scheduling a hearing for ██████████ 2016 @ 10:30 AM.

On ██████████ 2016, in accordance with sections 17b-60, 17b-61, and 4-176e to 4-184 of the Connecticut General Statutes ("Conn. Gen. Stat."), inclusive, OLCRAH held an administrative hearing to address the Department's denial of the Appellant's request for coverage of emergency medical services under the Husky D-MLIA program.

The following individuals were present at the hearing:

██████████, Appellant
██████████ Representative for the Appellant
Young June Lee, Representative for the Department

Hernold C. Linton, Hearing Officer

The hearing record was closed on [REDACTED] 2016.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's denial of the Appellant's request for emergency medical assistance as a non-citizen to cover the period of [REDACTED] 2016 through [REDACTED] 2016 under the Husky D-MLIA program is correct.

FINDINGS OF FACT

1. On [REDACTED] 2016, the Department received the Appellant's online application for emergency medical assistance coverage under the Husky D-MLIA program for a non-citizen. (Hearing Summary)
2. On [REDACTED] 2016, the Department received a discharge summary from [REDACTED] Hospital for the Appellant regarding his hospitalization and treatment for the period of [REDACTED] 2016 through [REDACTED] 2016. (Hearing Summary; Dept.'s Exhibit #1: Discharge Summary)
3. The Medical Review Team, also known as Colonial Cooperative Care, Inc. ("CCCI"), is a subcontractor for the Department in determining eligibility for coverage of emergency medical services for non-citizens. (Hearing Summary)
4. The Medical Review Team reviewed the medical information provided by the Appellant and determined that the Appellant was discharged on [REDACTED] 2016 and did not follow up with the [REDACTED] [REDACTED] had a one week hospital admission for wound care 3 weeks prior to this date of service for additional wound care, went to the clinic for wound care and was admitted for hardware removal, and that his hospital stay was greater than forty-eight hours for non-emergent date of service. (Dept.'s Exhibit #2: Emergency Medical Non-Citizen Determination)
5. On [REDACTED] 2016, the medical review team determined that the treatment does not meet the criteria for emergency services as defined in the regulation, and therefore, is not eligible for coverage under the Husky D-MLIA program. (Hearing Summary; Dept.'s Exhibit #2)
6. The Department denied the Appellant's application for emergency medical assistance under the Husky D-MLIA program for not being a U.S. citizen, permanent resident, or other eligible status, and that the medical documents provided had not been found by the medical review team as meeting the criteria for emergency services. (Dept.'s Exhibit #3: Notice of Denial)
7. The Appellant is 32 years of age (DOB [REDACTED]/84). (Appellant's testimony; Dept.'s Exhibit #1)
8. The Appellant has been residing in the United States as an undocumented non-

citizen. (Appellant's testimony; Hearing Summary)

9. The Appellant is not lawfully residing in the United States based on his non-citizen status. (Hearing Summary)
10. The Appellant was hospitalized at [REDACTED] [REDACTED] from [REDACTED] 2015 through [REDACTED] 2016 after being involved in a rollover car accident, which caught on fire, and he sustained multiple orthopedic injuries. (Appellant's testimony; [REDACTED]/16 Consultation Report)
11. The Appellant received emergency medical coverage to pay for his initial hospital stay from [REDACTED] 2015 through [REDACTED] 2016 resulting from the car accident. (Appellant's testimony)
12. The Appellant is seeking additional Medicaid coverage for the follow up medical treatment of the injuries that he sustained in the car accident. (Appellant's testimony)
13. On [REDACTED] 2016, the Appellant was readmitted to [REDACTED] [REDACTED] and a scheduled surgery was performed on the Appellant to remove hardware from his right ankle. (Appellant's testimony; [REDACTED]/16 Operative Notes)
14. At the time of his [REDACTED] 2016 admission, the Appellant denied having fevers, chills, and night sweats. However, he did have an open wound that was draining, and he claimed that he was receiving local wound care help from his brother. He denied any other complaints, such as difficulty breathing or shortness of breath. ([REDACTED]/16 Discharge Summary)
15. The Appellant continues to receive orthopedic care at [REDACTED] [REDACTED] as an outpatient, and he is doing very well. (Appellant's testimony; Appellant's Exhibit A: [REDACTED]/16 Letter of Medical Necessity)
16. The Appellant provided a Letter of Medical Necessity as additional medical information to be included into the hearing record and for the Department's consideration. (Appellant's Exhibit A: [REDACTED]/16 Letter of Medical Necessity; Appellant's Exhibit B: Ambulatory Progress Notes)
17. Pursuant to this administrative hearing, the Department submitted the additional medical information provided by the Appellant to the medical review team for a reconsideration review of the Appellant's request for coverage of emergency medical services. (Hearing Record)
18. Undocumented non-citizens, unlawfully residing in the United States are eligible for medical assistance under the Husky D-MLIA program only to treat an emergency medical condition. (Hearing Record)
19. On [REDACTED] 2016, the Medical Review Team determined that its original denial remained unchanged as the medical information submitted at the hearing

does not meet the criteria for emergency medical services, and is therefore not covered. (Dept.'s Exhibit #4: ██████/16 Emergency Medical Non-Citizen Determination)

CONCLUSIONS OF LAW

1. The Commissioner of Social Services shall, subject to federal approval, administer coverage under the Medicaid program for low-income adults in accordance with Section 1902(a)(10)(A)(i)(VIII) of the Social Security Act. To the extent permitted under federal law, eligibility for individuals covered pursuant to this section shall be based on the rules used to determine eligibility for the state-administered general assistance medical assistance program, including, but not limited to, the use of medically needy income limits, a one-hundred-fifty-dollars-per-month employment deduction and a three-month extension of assistance for individuals who become ineligible solely due to an increase in earnings. The commissioner shall implement the provisions of this section while in the process of adopting necessary policies and procedures in regulation form in accordance with section 17b-10. [Conn. Gen. Stat. § 17b-261n]

2. Title 42 of the Code of Federal Regulations ("CFR") § 440.255 (b)(1) provides for legalized aliens eligible only for emergency services and services for pregnant women and states that aliens granted lawful temporary resident status, or lawful permanent resident status under sections 245A, 210 or 210A of the Immigration and Nationality Act, who are not in one of the exempt groups described in § 435.406(a)(3) and 436.406(a)(3) and who meet all other requirements for Medicaid will be eligible for the following services: (1) Emergency services required after the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:
 - (i) Placing the patient's health in serious jeopardy;
 - (ii) Serious impairment to bodily functions; or
 - (iii) Serious dysfunction of any bodily organ or part

42 CFR § 440.255(c)(1) provides that effective January 1, 1987, aliens who are not lawfully admitted for permanent residence in the United States or permanently residing in the United States under color of law must receive the services necessary to treat the condition defined in paragraph (1) of this section if:

(1) if the alien has, after sudden onset, a medical condition (including emergency labor and delivery) manifesting itself by acute symptom of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

- (i) Placing the patient's health in serious jeopardy;
- (ii) Serious impairments to bodily functions; or
- (iii) Serious dysfunction of any bodily organ or part; and

- (2) The alien otherwise meets the requirements in § 435.406(c) and 436.406(c) of this subpart.
3. Uniform Policy Manual (“UPM”) § 3000.01 defines emergency medical condition as a medical condition, which, after sudden onset, manifests itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in (i) Placing the patient’s health in serious jeopardy; (ii) serious impairment to bodily functions; or (iii) serious dysfunction of any bodily organ or part.
 4. UPM § 3005.08(C) states that a non-citizen who does not fall into one of the listed categories is eligible for MA only to cover an emergency medical condition and only if the non-citizen is otherwise eligible for Medicaid.
 5. The Appellant was not lawfully admitted for permanent residence in the United States or permanently residing in the United States under another eligible non-citizen status.
 6. An Emergency medical event is considered to be a hospital emergency room visit and/or an emergency room visit that leads to an inpatient admission. If the visit and/or the procedure were planned, then the treatment is not eligible for coverage as an emergency medical treatment. Additionally, if the patient is discharged and follow up care is then scheduled as an outpatient, only the initial emergency room visit qualifies for emergency medical coverage, but the subsequent follow up care is considered non-emergency care.
 7. The Appellant’s ██████████ 2016 through ██████████ 2016 stay at ██████████ ██████████ was for follow up orthopedic treatment of the injuries that he sustained in the ██████████ 2015 car accident, and a scheduled surgery was performed to remove hardware from his right ankle.
 8. The Appellant did not present to the emergency room or seek immediate medical attention due to acute symptoms of such severity that would result in serious impairment of his bodily functions.
 9. The Appellant’s medical condition is the result of the orthopedic injuries that he sustained in a prior car accident, and the Appellant had a scheduled surgical procedure to remove hardware from his right ankle.
 10. The Appellant’s medical condition resulting in his ██████████ 2016 hospitalization was not of a sudden onset manifesting itself by acute symptoms of sufficient severity of such that in the absence of immediate medical attention would place his health in serious jeopardy.
 11. The Appellant needed subsequent medical treatment of the injuries that he sustained in a prior car accident, such as the treatment to remove hardware from

his right ankle; nevertheless, this treatment does not meet the criteria for emergency medical services. In addition, the Appellant does not meet the criteria for eligibility as a non-citizen according to the policy and regulations.

12. The Department correctly determined that as a non-citizen, the Appellant does not meet one of the qualifying criteria for receiving medical assistance under the Husky D-MLIA program.
13. The Department correctly determined that the Appellant is unlawfully residing in the United States as a non-citizen.
14. The Department correctly determined that the Appellant is ineligible for medical assistance under the Husky D-MLIA program as a non-citizen.
15. The Department correctly denied the Appellant's application for medical assistance to cover emergency medical services for a non-citizen for the period of [REDACTED] 2016 through [REDACTED] 2016 under the Husky D-MLIA program as the Appellant does not meet the eligible non-citizen criteria under the Federal and State requirements, and the treatment was not the result of the sudden onset of a medical condition, but rather a scheduled surgical procedure to remove hardware from his right ankle.

DECISION

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



Hernold C. Linton
Hearing Officer

cc: **Tonya Cook-Beckford**, Social Services Operations Manager,
DSS, R.O. # 42, Willimantic

Fair Hearing Liaisons, DSS, R.O. # 42, Willimantic

[REDACTED]
[REDACTED]

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 06105-3725.

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. 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.