

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

██████████ 2017
Signature Confirmation

Client ID # ██████████
Request # 811752

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2017, the Department of Social Services (the "Department") discontinued the Appellant's medical assistance effective ██████████ 2017.

The Department did not send ██████████ (the "Appellant") a Notice of Action ("NOA) discontinuing his medical assistance.

On ██████████ 2017, the Appellant requested an administrative hearing to contest the discontinuance of said benefits.

On ██████████ ██████████ 2017, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling an administrative hearing for ██████████ 2017.

On ██████████ 2017, 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:

██████████ Appellant
Kimberly Lopez, Appellant's Caregiver

Jennifer Ramsey, Department's Representative,
Pamela J. Gonzalez, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether the Department correctly discontinued the Appellant's medical assistance because his assets exceed the program's limit.

FINDINGS OF FACT

1. The Appellant was receiving medical assistance under the S05 coverage group: Medicaid for the Employed Disabled. (Hearing record)
2. The Appellant's date of birth is [REDACTED] 1954. (W-1ER Renewal of Eligibility form – Department's exhibit 4)
3. The Appellant is a disabled individual and receives social security income in the gross monthly amount of \$1,969.00. (Appellant's testimony)
4. The Appellant receives a pension in the monthly amount of \$2,031.76. (Pension Advice dated [REDACTED] 2016 – Department's exhibit 7, Appellant's testimony)
5. The Appellant ended employment on [REDACTED] 2014. (Statement from employer – Department's exhibit 8)
6. In [REDACTED] 2017, the Department updated the Appellant's case based upon information that it received from the Appellant for his [REDACTED] 2015 redetermination of eligibility. (Department's representative's testimony)
7. On [REDACTED] 2017, the Department removed the Appellant's earned income effectively discontinuing his medical assistance under the Medicaid for the Employed Disabled program (Department's representative's testimony)
8. The Department considered the Appellant's medical assistance eligibility under the HUSKY C coverage group": Medical Assistance to the Aged, Blind, and Disabled. (Eligibility Management System MAFI screen print – Department's exhibit 3, Hearing record)
9. The Appellant's assets include two checking accounts at Webster Bank. (Bank statements – Department's exhibit 6, Bank statements – Appellant's exhibit A)

10. The Appellant directly deposits his income into his checking accounts. His Social Security is deposited into one account and his pension is deposited into the other account. (Appellants exhibit A, Appellant's testimony)
11. The Department' representative was unable to say whether or not the Appellant's directly deposited income was excluded from asset eligibility consideration. (Department's representative's testimony)
12. On [REDACTED] 2017, the Department discontinued the Appellant's medical assistance effective [REDACTED] 2017 because the value of his assets exceeds the program's asset limit. (Eligibility Management System STAT screen print = Department's exhibit 2, Department's representative's testimony)
13. The Department did not send to the Appellant a notice of action to advise that his medical benefits would end effective [REDACTED] [REDACTED] 2017. (Department's representative's testimony)

CONCLUSIONS OF LAW

1. Section 17b-2 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.
2. Uniform Policy Manual ("UPM") § 2540.85(A)(1) discusses the basic insurance group under the Working Individuals with Disabilities Medicaid coverage group and states, in part, an individual in this group, which is authorized under the Ticket to Work and Work Incentives Act of 1999 (TWWIA), is subject to the conditions described below. An individual in this group must be engaged in a substantial and reasonable work effort to meet the employment criterion.
3. UPM § 2540.85(A)(1)(c) provides that an individual who meets the employment criterion but then loses employment through no fault of his own, for reasons such as a temporary health problem or involuntary termination, continues to meet the employment criterion for up to one year from the date of the loss of employment. The individual must maintain a connection to the labor market by either intending to return to work as soon as the problem resolves, or by making a bona fide effort to seek employment upon an involuntary termination.
4. The Appellant received assistance under the Medicaid for the Employed Disabled coverage group for more than one year following his separation from employment in [REDACTED] 2014.

5. The Appellant is not currently eligible for Medicaid for the Employed Disabled as he is not employed at this time and has exhausted what would have been a one-year extension of benefits.
6. A uniform set of income standards is established for all assistance units who do not qualify as categorically needy. It further states that the MNIL of an assistance unit varies according to the size of the assistance unit and the region of the state in which the assistance unit resides. Uniform Policy Manual ("UPM") § 4530.15(A)
7. The medically needy income limit is the amount equivalent to 143 percent of the benefit amount that ordinarily would be paid under the TFA program to an assistance unit of the same size with no income for the appropriate region of residence. UPM § 4530.15(B)
8. The Appellant resides in [REDACTED], which is in Region B. UPM § 4510.10(B).
9. The MNIL for one person residing Region B is \$523.38. UPM § P-4530.15
10. The Department correctly determined that the MNIL for the Appellant's needs group is \$523.38.
11. Income from Social Security is treated as unearned income for all programs. UPM § 5050.13(A)(1)
12. UPM § 5050.09(A) provides that payments received by the assistance unit from annuity plans, pensions and trusts are considered unearned income.
13. The Department correctly reflected the Appellant's unearned income of social security and pension in its eligibility determination.
14. For every program there is a definite asset limit. UPM § 4005.
15. UPM § 4005.10(A)(2) provides that for the AABD and MAABD programs, the asset limit is \$1,600.00 for a needs group of one.
16. UPM § 4030 provides that the Department evaluates all types of assets available to the assistance unit when determining the unit's eligibility for benefits.
17. UPM § 4030.05(B) provides that 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.

18. There is no evidence in the hearing record that the Department excluded the Appellant's directly deposited income from its asset eligibility determination. (Bank Statements – Department's exhibit 6, Hearing record)
19. The Department did not properly determine the Appellant's asset eligibility.
20. The Department improperly discontinued the Appellant's medical assistance under the HUSKY C coverage group.
21. UPM § 1570.10(A) provides that except in situations described below, the Department mails or gives adequate notice at least ten days prior to the date of the intended action if the Department intends to 1. Discontinue, terminate, suspend or reduce benefits; or 2. Change the manner or form of payment for programs.
22. The Department improperly discontinued the Appellant's medical assistance without prior notice.


DECISION

This case is remanded for additional eligibility processing.

ORDER

The Department shall void its discontinuance of the Appellant's medical assistance and shall continue to process for eligibility, re-evaluating assets in accordance with this decision.

Proof of compliance: verification that the [REDACTED] 2017 discontinuance has been voided is due to OLRAH by [REDACTED] 2017.


Pamela J. Gonzalez
Hearing Officer

Copy: Phil Ober, SSOM, R.O. #52, New Britain
Patricia Ostroski, SSPM, R.O. #52, New Britain
Jennifer Ramsey, Fair Hearing Liaison, #52, New Britain

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 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 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 his 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.

