

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

REQUEST #122724

██████████ 2018
SIGNATURE CONFIRMATION

CLIENT ID ██████████
CASE ID ██████████

NOTICE OF DECISION

PARTY

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████████████████████

PROCEDURAL BACKGROUND

On ██████████ 2018, the Department of Social Services (the "Department"), issued a Notification to ██████████ (the "Appellant"). The notice stated that the Appellant's application for coverage of emergency medical services for the period of ██████████ 2018 through ██████████ 2018 under the Husky D-Medicaid for Low Income Adult ("LIA") program had been denied, as the criteria for emergency services as defined in 42 CFR 440.255b.1 and 42 CFR c (1) must be met in order for the Appellant to be eligible for emergency medical coverage.

On ██████████ 2018, the Appellant's Representative Agency (**Med Data Inc.**) requested an administrative hearing on behalf of the Appellant to contest the Department's denial of the Appellant's request for emergency medical coverage under the Husky D program.

On ██████████ 2018, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice scheduling a hearing for ██████████ 2018 @ 2:00 PM.

On ██████████ 2018, 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-LIA program.

The following individuals were present at the hearing:

██████████, Appellant
Alex (Interpreter #10162), ITI Language Line Interpreter
██████████, Representative for Med Data Inc./Appellant

Garfield White, Representative for the Department
Hernold C. Linton, Hearing Officer

The closing of the record was extended for the Medical Review Team to review the additional information submitted at the hearing. The hearing record was then closed on [REDACTED] 2018.

STATEMENT OF THE ISSUE

The issue to be decided is whether the issue that led to the Appellant's request for an administrative hearing has been resolved.

POR FAVOR VEA LA COPIA INCLUIDA DE ESTA DECISIÓN EN ESPAÑOL.
PLEASE SEE THE ENCLOSED COPY OF THIS DECISION IN SPANISH.

FINDINGS OF FACT

1. On [REDACTED] [REDACTED] 2018, the Department received the Appellant's application for emergency medical coverage under the Husky D-Low Income Adult program for non-citizens. (Hearing Summary; Dept.'s Exhibit B: Application Information)
2. The Department received a discharge summary from Hartford Hospital for the Appellant regarding her hospitalization and treatment for the period of [REDACTED], 2018 through [REDACTED] 2018. (Hearing Summary; Dept.'s Exhibit D: 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. CCCI reviewed the medical information provided by the Appellant regarding her hospitalization and treatment for the period of [REDACTED] 2018 through [REDACTED] 2018, and determined that the medical information submitted did not meet the criteria for emergency services as defined in the regulation, and is therefore not covered. (Dept.'s Exhibit E: Emergency Medical Non-Citizen Determination)
5. CCCI also determined that the Appellant's surgical procedure to close the displaced fracture of her left femur was a planned procedure, a non-emergent date of service, and denied the request as not meeting the criteria for emergency services as defined in the regulation. (Dept.'s Exhibit E)
6. On [REDACTED] 2018, the Department sent the Appellant a notice denying her application for emergency medical coverage under the Husky D program for the period of [REDACTED] 2018 through [REDACTED] 2018 as the medical information submitted pertaining to the medical services provided did not meet the criteria for emergency services as defined in the regulation. (Dept.'s Exhibit F: [REDACTED] 18 Notification from the Department)
7. The Appellant is [REDACTED] years of age (DOB [REDACTED]). (Appellant's testimony; Dept.'s

Exhibit D)

8. The Appellant has been residing in the United States as an undocumented non-citizen. (Appellant's testimony; Hearing Summary; Dept.'s Exhibit B)
9. The Appellant is not lawfully residing in the United States based on her non-citizen status. (Hearing Summary)
10. The Appellant was hospitalized at Hartford Hospital from [REDACTED] 2018 through [REDACTED] 2018 after being involved in a motor vehicle accident, wherein she was an unbelted passenger, and she sustained a displaced fracture of the shaft of her left femur. (Appellant's testimony; Dept.'s Exhibit B)
11. The Appellant is seeking emergency medical coverage under the Husky D program for the medical treatment of the injuries that she sustained in a motor vehicle accident. (Appellant's testimony)
12. At the time of her [REDACTED] 2018 admission, the Appellant denied having fevers, chills, and night sweats. However, she did report severe pain to her left thigh, displayed an obvious deformity to her left thigh, report no loss of consciousness, sensation deficits, focal weakness, or abdominal pain. (Appellant's Exhibit #1: Provider Notes)
13. The Appellant's physical examination at admission revealed that she was oriented to people, place, and time. She appeared well-developed and well-nourished, and she reported no distress. (Appellant's Exhibit #1)
14. The Appellant's Representative provided additional medical information to be included into the hearing record and for the Department's consideration. (Appellant's Exhibit #1; Appellant's Exhibit #2: Orthopedic Discharge Summary)
15. The Department submitted the additional medical information provided by the Appellant's Representative to CCCI for a reconsideration review of the Appellant's request for approval of coverage for emergency medical services. (Hearing Record)
16. Undocumented non-citizens, unlawfully residing in the United States are eligible for medical assistance under the Husky D program only to treat an emergency medical condition. (Hearing Record)
17. On [REDACTED] 2018, CCCI reviewed the additional information provided and approved the Appellant's request for emergency medical coverage under the Husky D Medicaid program for the period of [REDACTED] 2018 through [REDACTED] 2018 to cover the medical treatment of the injuries that she sustained in a motor vehicle accident. (Email dated [REDACTED] 18)

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. The Department correctly determined that the Appellant is unlawfully residing in the United States as a non-citizen.
7. 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.
8. The Appellant's [REDACTED] 2018 through [REDACTED] 2018 stay at Hartford Hospital was for orthopedic treatment of the injuries that she sustained in a motor vehicle accident, and surgery was performed to close the displaced transverse fracture of the shaft of her left femur.
9. Conn. Gen. Stats. § 4-177(c) provides that unless precluded by law, a contested case may be resolved by stipulation, agreed settlement, or consent order or by the default of a party.
10. Uniform Policy Manual ("UPM") § 1570.05(L)(1) provides that the Department takes prompt, definitive, and final action in resolving the dispute. Final action includes the following:
 - (a) issuance of the Fair Hearing decision; and
 - (b) notifying the requester of the decision; and
 - (c) making any changes in the assistance unit's case as mandated by the Fair Hearing decision; and
 - (d) notifying the requester of the changes.
11. UPM § 1570.15(A) provides that if the Department resolves the requester's dispute prior to the holding of a Fair Hearing, the Department still holds the Fair Hearing unless the request is withdrawn in writing.
12. By approving the Appellant's request for emergency medical coverage under the Husky D program for the period of [REDACTED] 2018 through [REDACTED] 2018 for the medical treatment of the injuries that she sustained in a motor vehicle accident, the Department voided the action that led to the Appellant's request for an administrative hearing.

13. The issue that led to the Appellant's request for this administrative hearing has been resolved as the Department approved the Appellant's request for emergency medical coverage under the Husky D Medicaid program for the period of [REDACTED] 2018 through [REDACTED] 2018.
14. The Appellant's appeal is hereby dismissed as the Department voided the action that led to the request for this administrative hearing, and there are no further issues to be adjudicated.

DISCUSSION

The Department has voided the action that led to the Appellant's request for this administrative hearing hereby resolving the issues to be adjudicated. The Appellant's request for emergency medical coverage under the Husky D Medicaid program for the period of [REDACTED] 2018 through [REDACTED] 2018 has now been approved, barring any unforeseen developments.

The Department has resolved the issue that resulted in the Appellant's request for this hearing. However, the Appellant reserves the right to object and to request another administrative hearing, based on any future adverse action notices that she receives from the Department. Consequently, the Appellant's appeal is hereby dismissed as the issue that led to the Appellant's request for this administrative hearing has been resolved, and there are no further issues to be adjudicated.

DECISION

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



Hernold C. Linton
Hearing Officer

Pc: **Musa Mohamud**, Social Service Operations Manager,
DSS, R.O. #10, Hartford

Judy Williams, Social Service Operations Manager,
DSS, R.O. #10, Hartford

Jessica Carroll, Social Service Operations Manager,
DSS, R.O. #10, Hartford

Fair Hearing Liaisons, DSS, R.O. #10, Hartford

[REDACTED], Med Data Inc.
80 Seymour Street, Hartford, CT 06102-8000

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.