

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

██████████, 2018
Signature Confirmation

████████████████████
Request # 123118

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████, 2018, the Department of Social Services (the “Department”) sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) discontinuing her Husky C Medicaid Waiver for Individuals Receiving Home and Community Based Services.

On ██████████ 2018, the Appellant’s Representative, ██████████, requested an administrative hearing on behalf of the Appellant to contest the Department’s decision to discontinue such benefits.

On ██████████, 2018, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████, 2018.

On ██████████, 2018, in accordance with sections 17b-60, 17b-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’s Representative
Amy Koropatkin, Department’s Representative
Shelley Starr Hearing Officer

The hearing record was held open for the submission of additional evidence from the Department and the Appellant's Representative. The additional evidence was received. On [REDACTED] 2018, the hearing record closed.

STATEMENT OF THE ISSUE

The issue is whether the Department's decision to discontinue the Appellant's Husky C Home and Community based Medicaid benefits for failure to provide information was correct.

FINDINGS OF FACT

1. The Appellant is [REDACTED] years old ([REDACTED]) and resides at home with her live in care giver. (Representative's Testimony)
2. The Appellant was a recipient of the Husky C Home and Community Based W01 waiver program through [REDACTED], 2018; when the program discontinued as the renewal process was not completed. (Representative's Testimony; Department's Testimony; Exhibit L: Case Narrative; Hearing Record)
3. On [REDACTED], 2018, the Department received the Appellant's completed W-1ER Renewal of Eligibility form for the Husky C W01 program and reopened the assistance unit to pending status. (Hearing Record; Exhibit L Case Notes)
4. On [REDACTED], 2018, the Department reviewed the Appellant's renewal form and sent to the Appellant and her Representative a W-1348 Proofs We Need form requesting verification of the Webster checking account # [REDACTED] balance and proof of pension. The information was due by [REDACTED], 2018. (Exhibit B: W-1348 Proofs We Need dated [REDACTED] 2018)
5. On [REDACTED] 2018 [REDACTED], 2018, the Appellant's Representative submitted an online change ("ONCH") to the Department with the requested proofs submitted as attachments. (Appellant's Testimony; Representative's Hearing Request; Exhibit E and F: ONCH form dated [REDACTED] 2018 and [REDACTED] 2018, Exhibit L Case Notes)
6. The Department received the ONCH without any attachments and was unable to locate the documents submitted. (Department's Testimony; Exhibit L: Case Notes; Hearing Record)
7. On [REDACTED] 2018, the Department sent the Appellant and her Representative a Notice of Action notifying that the Husky C Home and Community Based Services closed effective [REDACTED], 2018, because " You did not return all of the

required proofs by the date we asked; does not meet program requirements.”
(Exhibit C: W-0001N Notice of Action dated [REDACTED] 2018)

8. The Appellant’s Representative’s testimony is credible. (Representative’s Testimony; Hearing Record)

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 pursuant to Title XIX of the Social Security Act.
2. Uniform Policy Manual (“UPM”) § 1540.05 (B)(1) provides that the Department requires verification of information: (a) when specifically required by federal or State law or regulations; and (b) when the Department considers it necessary to corroborate an assistance unit’s statements pertaining to an essential factor of eligibility.

UPM § 1545.05 (A)(B) provides that eligibility is redetermined on a scheduled basis. A redetermination constitutes a complete review of AFDC, AABD or MA certification. The purpose of the redetermination is to review all circumstances relating to need, eligibility and benefit level.

UPM § 1545.40 (A) provides that Eligibility is redetermined by the end of the current redetermination period in all cases where sufficient information exists to reach a decision. Continued eligibility is either approved or denied, and the assistance unit notified of the Department’s determination.

UPM § 1015.05 (C) provides that the Department must tell the assistance unit what the unit has to do to establish eligibility when the Department does not have sufficient information to make an eligibility determination.

The Department correctly issued the Appellant and her Representative a W-1348 Proofs We Need Form requesting information needed to establish eligibility.

3. UPM § 1010.05 (A)(1) provides that the assistance unit must supply the Department in an accurate and timely manner as defined by the Department, all pertinent information, and verification that the Department requires to determine eligibility and calculate the amount of benefits.

UPM § 1540.10 (A) provides that the assistance unit bears the primary responsibility for providing evidence to corroborate its declarations.

UPM § 1505.35 (D)(2) provides that the Department determines eligibility within the standard of promptness for the MA programs except when verification needed to establish eligibility is delayed and one of the following is true: the client has good cause for not submitting verification by the deadline, or the client has been granted a 10 day extension to submit verification which has not elapsed.

UPM § 1505.40 (A) (1) provides that prior to making an eligibility determination the Department conducts a thorough investigation of all circumstances relating to eligibility and the amount of benefits.

UPM § 1545.40 (B)(1)(d) provides Good cause may include, but is not limited to the following hardships: (1) illness; (2) severe weather; (3) death in the immediate family; (4) other circumstances beyond the control of the assistance unit.

The Appellant's Representative timely submitted the requested verifications to the Department to complete the W01 renewal process.

The Department incorrectly closed/denied the Appellant's assistance under the W01 Home and Community Based Services program effective [REDACTED], 2018, because the verification was submitted, however was not received by the Department due to technical circumstances beyond the control of the Appellant and her Representative.

DISCUSSION

Based on the testimony and evidence presented at this hearing, I find the Department's action to discontinue the Appellant's Husky C Home and Community Based Services for failure to provide information is not upheld.

Upon receiving the renewal form, the Department requested the necessary verification needed to complete the renewal with a due date by [REDACTED] 2018. The Department's case note (see Exhibit L: entry [REDACTED]) provides that "docs received forwarded for processing." In addition, the Department's case note (see Exhibit L: entry [REDACTED]) provides "[REDACTED] and [REDACTED] documents are ONCH but have no attached documents with them. Disposition of these items completed. Check of ImpaCT negative for documents under CID/Case#/Name.

Closed/Denied as of [REDACTED]. A new application must be made.” The Department proceeded to close/deny the assistance.

The preponderance of evidence demonstrates that the Representative timely provided the requested verification. It is reasonable that for good cause reason and circumstances beyond control, the completion of the necessary action was unsuccessful, because the record reflects that the information was submitted, however due to a technical issue was not received by the Department.

DECISION

The Appellant’s appeal is **UPHELD**.

ORDER

1. The Department shall reopen the Appellant’s W01 Husky C Home and Community Based Waiver effective [REDACTED] 2018.
2. The Department shall issue the Appellant and her Representative a W-1348 Verification We Need form, requesting all appropriate verifications needed to determine the Husky C W01 eligibility and allow at least ten days to provide the information.
3. Proof of compliance with this order by submission of proof of the reopening of The Husky C W01 for [REDACTED] 2018, shall be submitted to the undersigned no later than [REDACTED], 2018.

Shelley Starr
Hearing Officer

cc: Patricia Ostroski , DSS New Britain
Amy Koropatkin, DSS New Britain
[REDACTED], Appellant’s Representative

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 06105-3725.

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 06105-3725. 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.