

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

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

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

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2018, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") denying his application for Husky C Medicaid benefits.

On ██████████ 2018, the Appellant requested an administrative hearing to contest the Department's decision to deny 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, 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 for ██████████ (mother and Guardian)
██████████, disabled son of Appellant (Applicant and subject of hearing)
██████████, Father of ██████████

Victor Robles, Department Representative Windsor Office
Kristen Hagen, Department Representative, Norwich Office
Amanda Guillemette, Observer and assistance to Department Representative
Almelinda McLeod, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny Husky C Medicaid was correct.

FINDINGS OF FACT

1. On [REDACTED] 2018, the Appellant moved to Connecticut. (Exhibit 1, W-1E application).
2. The Appellant's son is a [REDACTED] yrs. old non-verbal adult with a diagnosis of Autism and cerebral palsy. (Hearing record)
3. Prior to coming to Connecticut, the Appellant's son had speech and occupational services under the Arizona Department of Economic Security, Division of Developmental Disabilities where he was last reviewed on [REDACTED] 18.
4. The Appellant interviewed with DDS seeking services for her son and was instructed to come to DSS to apply for Husky C. (Appellant's testimony)
5. On [REDACTED], 2018, the Appellant initially applied for Medicaid, but was told by the Department, that the application used to apply for Husky C was incorrect and sent her a new one. (Hearing record)
6. The Appellant was told by the Department that her son would end up in a spend down because her son's SSDI income was \$828.00 per month. (Appellant testimony)
7. On [REDACTED], 2018, the Appellant applied for Husky C for her son using the W-1E application sent to her by the Department. (Exhibit 1, W-1E application)
8. On [REDACTED] [REDACTED], 2018. The Appellant became the plenary Guardian appointed by the State of Connecticut for her son. (Exhibit B, court paper)
9. On [REDACTED], 2018, the Department received the W-1E application and processed for Husky C Medicaid for waiver services. (Exhibit , application and Hearing summary)
10. The Application W-1E indicates that the application was only for the Appellant's son and that he was applying for Medical (Husky/Medicaid/

Health Insurance); it does not stipulate the application was for waiver service. (Exhibit 1, W-1E application)

11. The Department processed the application for Husky C Home Care for the Elderly program and waiver services. (Hearing Summary & Department testimony)
12. On [REDACTED] 2018, the Department e-mailed the Department of Developmental Disabilities (“DDS”) Waiver requesting information on any waiver services for the Applicant and whether or not a case manager had been assigned. (Exhibit 4, E-mail correspondence)
13. On [REDACTED] 2018, the Department received a response from Ivonne Pantoja from DDS whereby the Department was informed that he was not receiving waiver services and had not been assigned a case manager. The e-mail from Ms. Pantoja stated his status had not changed and questioned whether the Applicant was under Husky C. (Hearing summary and Exhibit 4)
14. On [REDACTED] 2018, the Department e-mailed Paul Chase, Public Assistance Consultant for the Department’s Community Options Unit requesting if Applicant was known to the Acquired Brain Injury (“ABI”) or Personal Care Assistance (“PCA”) waiver programs. The Department received a response from Paul Chase that the Applicant was not on the ABI or PCA lists. (Exhibit 2, E-mail correspondence)
15. On [REDACTED] 2018, the Department e-mailed Michael Blazco from the Department’s Autism Spectrum Disorder Services under the Community Options Unit requesting if the Applicant was known to the Autism Spectrum Waiver? The Department received a response from Michael Blazco that the Applicant was not known to the unit and he was not on the Autism Spectrum Disability (“ASD”) wait list. (Exhibit 3, E-mail correspondence)
16. On [REDACTED] the Department e-mailed Brenda Providence from the Department to request if the Applicant was known to the Mental Health Waiver? The response from Brenda Providence was that the Applicant was not on the mental health waiver list. (Exhibit 5, e-mail correspondence)
17. On [REDACTED] 2018, the Department denied the application as the Appellant did not meet the age requirement of 65 and did not qualify for the Home Care Waiver program as he was not on any list. (Hearing summary and Exhibit 6, Notice of Action)

18. The Appellant testified that she requested assistance with the Husky C application in order to get services for her son. She did as she was instructed by the Department and relied upon their expertise in the application process. The Appellant is not clear as to why her son was not processed for Husky C Medicaid as a ■ year old disabled person. (Appellant's testimony)
19. The Appellant's testimony is credible.
20. The Department could not specify why the W-1E was not processed for the Husky C Medicaid. (Hearing record)

CONCLUSIONS OF LAW

1. Section 17b-2 (6) of the Connecticut General Statute provides that the Department of Social Services is designated as the stare agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Title 42 § 4335.133 of the Code of Federal Regulations ("CFR") provides that the Agency must provide Medicaid to individuals who -- (a) Meet all current requirements for Medicaid eligibility except the criteria for blindness or disability; (b) Were eligible for Medicaid in December 1973 as blind or disabled individuals, whether or not they were receiving cash assistance in December 1973; and (c) For each consecutive month after December 1973, continue to meet the criteria for blindness or disability and the other conditions of eligibility used under the Medicaid plan in December 1973.
3. Uniform Policy Manual ("UPM") § 1505.10 (A) (2) provides that the Department may utilize a single uniform application for multiple programs, or separate applications for individual programs.
4. UPM § 1505.10 (B) (1) (2) (3) provides that Individuals who desire to obtain aide must file a formal request for assistance. The formal request must be made in writing on the application form. At a minimum, the following information must be presented: (a) the full name and address of the applicant; and (b) the signature of the applicant, caretaker relative or other individual who is requesting assistance on behalf of the applicant.
5. **The Appellant appropriately filed a formal request for Medicaid assistance using the W-1E application given to her by the Department whereby the Appellant supplied the minimum information of his name and address and signed the application on behalf of her son.**

6. UPM § 1505.10 (E) (1) (2) provides that individual who apply for AABD are automatically considered to have requested assistance from the MA program. A determination of eligibility for assistance under other Medicaid coverage groups is done without requiring a separate application when: (a) AABD is denied or discontinued; or (b) Medicaid is denied or discontinued in regard to a particular coverage group; or (c) an applicant or recipient of SAGA medical assistance is determined to meet the disability requirement for the Medicaid program.
7. UPM § 1015.05 provides that in the MA program, the Departments must allow an individual who would be eligible under more than one category to have his or her eligibility determined for the category the individual selects.
8. **The Department incorrectly did not determine eligibility for another Husky program, in this case Husky C, when the Department determined that the Appellant's son was not eligible under the Medicaid for Home care for Elders or Medicaid for Waiver Services.**

DISCUSSION

The Appellant was applying for Husky C for her son. The Department sent her W-1E application and instructed her to fill this application out as the initial application was not the correct application form. The W-1E application was filled out as instructed.


The Department processed and denied the W-1E application for both Husky C Aged, Blind and Disabled and waiver services. The notice indicated that there were no eligible household members eligible for the program and that the Appellant did not meet the program requirement for Husky C, Aged, Blind or Disabled; however, the Department was not able to specify why the Department did not have the W-1E application processed for Husky C Medicaid; which was the program the Appellant applied for. The Department is not upheld.

DECISION

The Appellant's appeal is **REMANDED** back to the Department for further action.

ORDER

1. The Department must re-open the W-1E application received on [REDACTED], 2018.
2. The Department must process the application for Husky C effective [REDACTED], 2018.
3. The Department must allow the Appellant ten days to provide any verification necessary in order to determine Husky C eligibility.
4. Compliance with this order shall be provided to the undersigned by



Almelinda McLeod
Hearing Officer

CC: Tyler Nardine, SSOM, Norwich Regional Office
Victor Robles, Fair Hearing Liaison, Windsor Regional Office

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.