

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

██████████ 2018
Signature confirmation

Case: ██████████
Client: ██████████
Request: ██████████

NOTICE OF DECISION

PARTY

██████████
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██████████████████

PROCEDURAL BACKGROUND

The Department of Social Services (the “Department”) terminated the HUSKY-C/Medicaid coverage of ██████████ (“the Appellant”) effective ██████████, 2018. The Department did not issue a *Notice of Action* with respect to the ██████████, 2018 termination.

On ██████████ 2018, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) received a hearing request to dispute the termination. On ██████████ 2018, the OLCRAH issued a *Notice of Administrative Hearing* 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, the OLCRAH held an administrative hearing. The following individuals participated in the administrative hearing:

██████████, Appellant
██████████, Appellant’s authorized representative
██████████, Four Corners Rest Home owner, Appellant’s witness
Noel Lord, Department’s representative
Ellen Croll-Wissner, Department’s witness
Eva Tar, hearing officer

██████████, the Appellant’s authorized representative, requested that the hearing record be extended to ██████████ 2018. The hearing officer granted the request.

On [REDACTED] 2018, the hearing record closed.

STATEMENT OF ISSUE

The issue to be decided is whether the Department correctly terminated the Appellant's HUSKY-C/Medicaid coverage effective [REDACTED], 2018.

FINDINGS OF FACT

1. On [REDACTED] 2018, the Department issued a *Notice of Action* terminating the Appellant's HUSKY-C/Medicaid coverage effective [REDACTED] 2018. (Department's Exhibit 3)
2. On [REDACTED] 2018, the Department reinstated the Appellant's HUSKY-C/Medicaid coverage for the period from [REDACTED] 2018 through [REDACTED], 2018. (Department's Exhibit 16)
3. On [REDACTED] 2018, the Department issued a *Proofs We Need* notice to the Appellant, requesting documentation of his checking account balance, proof of life insurance policy (face and cash value), and proof of his gross earnings by [REDACTED] 2018, or his coverage may be delayed or denied. (Department's Exhibit 7)
4. On [REDACTED] 2018, the Department issued a *Worker Generated Requests for Proofs* to the Appellant, requesting a bank statement to the account to which his Social Security disability was being directly deposited and verification of the cash value of his life insurance policy by [REDACTED] 2018 in order for the Department to make a decision on his case. (Department's Exhibit 8)
5. On [REDACTED] 2018, the Appellant submitted to the Department documentation verifying that he had surrendered his [REDACTED] insurance policy ([REDACTED]) for \$8,366.19 on [REDACTED], 2017. (Department's Exhibit 19)
6. On [REDACTED] 2018, the Appellant submitted to the Department documentation of his Milford Bank account ([REDACTED]). (Department's Exhibit 19)
7. On [REDACTED] 2018, the Appellant filed a new HUSKY-C/Medicaid application. (Department's representative's testimony)
8. On [REDACTED], 2018, the Appellant submitted a *Certificate of Ownership of an Irrevocable Pre-Need Funeral Service Contract* and twenty (20) wage stubs with varying dates to the Department. (Appellant's Exhibit B)(Appellant's Exhibit C)
9. On [REDACTED], 2018, the Appellant's authorized representative submitted to the Department a document on which the authorized representative's signature was notarized. (Appellant's Exhibit D)

CONCLUSIONS OF LAW

1. Section 17b-2 (a)(6) of the Connecticut General Statutes designates the Department as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.

Section 17b-80 (a) of the Connecticut General Statutes provides in part, “The commissioner, subject to the provisions of subsection (b) of this section, shall in determining need, take into consideration any available income and resources of the individual claiming assistance. The commissioner shall make periodic investigations to determine eligibility and may, at any time, modify, suspend or discontinue an award previously made when such action is necessary to carry out the provisions of the state supplement program, medical assistance program, temporary family assistance program, state-administered general assistance program or supplemental nutrition assistance program.” Conn. Gen. Stat. § 17b-80 (a).

The Department has the statutory authority to conduct a periodic review to determine the Appellant’s eligibility for HUSKY-C/Medicaid coverage.

2. Section 17b-10 (a) of the Connecticut General Statutes provides in part: “The Department of Social Services shall prepare and routinely update state medical services and public assistance manuals. ... All policy manuals of the department, as they exist on May 23, 1984, including the supporting bulletins but not including statements concerning only the internal management of the department and not affecting private rights or procedures available to the public, shall be construed to have been adopted as regulations in accordance with the provisions of chapter 54. After May 23, 1984, any policy issued by the department, except a policy necessary to conform to a requirement of a federal or joint federal and state program administered by the department, including, but not limited to, the state supplement program to the Supplemental Security Income Program, shall be adopted as a regulation in accordance with the provisions of chapter 54.”

Section 17b-10-1 of the Regulations of Connecticut State Agencies provides in part: “Pursuant to section 17b-10 of the Connecticut General Statutes, the Department of Social Services has prepared, and routinely updates, a state eligibility Policy Manual containing all departmental policy regulations and substantive procedures which affect the rights or procedures available to the public. In particular, the Policy Manual outlines the policies and procedures used by the department to implement and enforce federal and state laws for all of the programs which it administers. The Policy Manual was adopted pursuant to the applicable provisions of the Uniform Administrative Procedure Act and any amendment to, or repeal of, the regulatory provisions contained therein would also be subject to UAPA procedural requirements.”

The Department’s Uniform Policy Manual (“UPM”) has the force and effect of state regulations.

3. “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.” Uniform Policy Manual (“UPM”) § 1015.05 (C).

“Case Decisions. The Department must send the assistance unit a notice regarding the Department's determination of the unit's initial eligibility, and, subject to conditions described in Section 1570, adequate notice before taking action to change the unit's eligibility status or the amount of benefits.” UPM § 1015.10 (C).

“Notice Requirements. 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.” UPM § 1570.10 (A).

UPM § 1570.10 (B)(1) provides that with respect to the HUSKY-C/Medicaid program, “[t]he Department mails an adequate notice no later than the date of the action if the action is based on any of the following circumstances:

- a. the Department has factual information that all members of the assistance unit have died; or
- b. the Department receives a clear, written statement signed by the assistance unit stating that:
 - (1) the unit no longer wishes to receive benefits; or
 - (2) the unit is giving the Department information which requires that the Department terminate or reduce benefits, and that the unit understands that this must be the result of supplying that information; or
- c. the assistance unit is required to submit monthly reports and the unit either:
 - (1) furnishes information which requires that the Department reduce or discontinue benefits; or
 - (2) fails to complete a timely monthly report without good cause; or
- d. the affected individual has been admitted to or committed to an institution, and the individual is not eligible for assistance while living there; or
- e. the assistance unit's whereabouts are unknown and the post office returns departmental mail directed to the unit indicating no forwarding address; or
- f. the Department verifies that the assistance unit has been granted benefits under the same program in another state.”

The Appellant's circumstances do not meet the criteria set in UPM § 1570.10 (B)(1) for an exception to the 10-day requirement for adequate notice to discontinue, terminate, or suspend HUSKY-C/Medicaid coverage.

The Department did not meet the notice requirements set in UPM § 1570.10 with respect to [REDACTED], 2018 termination of the Appellant's HUSKY-C/Medicaid coverage.

The Department committed procedural error when it terminated the Appellant's HUSKY-C/Medicaid coverage effective [REDACTED] 2018 without issuing a *Notice of Action* at least 10 days prior to the effective termination date.

DISCUSSION

The Department committed procedural error by failing to issue a *Notice of Action* at least 10 days in advance to closing the Appellant's HUSKY-C/Medicaid case effective [REDACTED] 2018. Based on this case's unique circumstances, the hearing officer finds that the matter is most equitably addressed by rescreening the Appellant's AABD case effective [REDACTED] 2018.

The Department should review the Appellant's case and take appropriate action regarding the information it has since received as to the Appellant's [REDACTED] account, the circumstances subsequent to the surrender of the [REDACTED] insurance policy, and his gross wages.

DECISION

The issue of this administrative hearing is REMANDED to the Department for further action.

ORDER

1. The Department will rescreen the Appellant's HUSKY-C/Medicaid coverage effective [REDACTED] 2018.
2. The Department will evaluate the wage and asset verification submitted by the Appellant at the [REDACTED] 2018 administrative hearing.
3. Upon completion of its review, the Department will issue a *Notice of Action* to the Appellant and his authorized representative either granting or denying the Appellant's HUSKY-C/Medicaid coverage effective [REDACTED] 2018.
4. Within 14 calendar days of the date of this decision, or [REDACTED] 2018, documentation of compliance with this order is due to the undersigned.

Eva Tar - electronic signature
Eva Tar
Hearing Officer

cc: [REDACTED]
Noel Lord, DSS-Stamford
Rachel Anderson, DSS-New Haven
Cheryl Stuart, DSS-New Haven
Lisa Wells, DSS-New Haven

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.