

STATE OF CONNECTICUT  
DEPARTMENT OF SOCIAL SERVICES  
OFFICE OF LEGAL COUNSEL, REGULATION AND ADMINISTRATIVE HEARINGS  
55 FARMINGTON AVENUE  
HARTFORD, CONNECTICUT 06105-3730

[REDACTED], 2018  
Signature Confirmation

[REDACTED]  
Request ID #128846

NOTICE OF DECISION  
PARTY

[REDACTED]

PROCEDURAL BACKGROUND

[REDACTED], 2018, the Department of Social Services (the "Department") sent [REDACTED] (the "Appellant") a Notice of Action ("NOA") denying his application for the Home and Community Base Services ("W01") under the Husky C Medicaid Program.

[REDACTED], 2018, the Appellant and [REDACTED], the Appellant's father and representative, requested an administrative hearing to contest the Department's denial.

[REDACTED], 2018, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice scheduling the administrative hearing for [REDACTED], 2018.

[REDACTED], 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:

[REDACTED] Appellant's Father and Representative  
Ebony Jackson, Department's Representative via telephone conference  
Jason Bezzini, Department's Representative via telephone conference  
Veronica King, Hearing Officer

The Appellant was not present at the hearing.

The hearing record was left open for the submission of additional evidence. On [REDACTED], 2018, the hearing record closed.

### STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's denial of the Appellant's application for Connecticut Home Care Program or Elders services under the Husky C Medicaid waiver program was correct.

### FINDING OF FACTS

1. [REDACTED], 2018, the Appellant applied for Medicaid Home and Community-Based Waiver Services ("W01"). The Department screened the W01 Husky C Medicaid for Home and Community Based services Waiver (W01) for Adults program. (Hearing Record)
2. The Appellant is 23 years old (DOB [REDACTED]). (Appellant's Representative Testimony and Hearing Record)
3. The Department emailed the contact person for the Personal Care Assistance ("PCA"), Acquired Brain Injury ("ABI"), Department of Developmental Services ("DDS"), Mental Health Waiver and Autism Spectrum Disorder ("ASD") to determine if the Appellant is known to any waivers programs and if he is on any waitlist. (Exhibit 1: Department's emails and Hearing Record)
4. [REDACTED] 2018, the case management's supervisor for the ASD services sent an email to the Department. The email stated that the Appellant is on the ASD waiver waitlist since [REDACTED]. The email does not indicate the Appellant's place on the waitlist. (Exhibit 1 and Hearing Record)
5. The only waiver program offered by the Department that does not have a waitlist or cap to the number of people which can be served is the Connecticut Home Care Program for Elders. (Hearing Record)
6. The Department determined based on the Appellant's age he is not eligible for the Connecticut Home Care Program for Elders waiver program. (Hearing Record)
7. [REDACTED], 2018, the Department sent a NOA notifying the Appellant that his application for home and community based services was denied because he does not meet the requirements for the Connecticut Home Care Program for Elders waiver program. The notice also stated that he is on the Autism Medicaid Waiver waitlist. (Exhibit 2: NOA, [REDACTED]/18 and Hearing Record)

8. The issuance of this decision is timely under Connecticut General Statutes 17b-61(a), which requires that a decision be issued within 90 days of the request for an administrative hearing. The Appellant requested an administrative hearing on [REDACTED] 2018. This decision, therefore, was due no later than [REDACTED] 2018. (Hearing Record)

### CONCLUSION OF LAW

1. Section 17b-2 and § 17b-260 of the Connecticut General Statutes ("CGS") , authorizes the Department of Social Services to administer the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Uniform Policy Manual ("UPM ") § 2540.92 provides for individuals receiving Home and Community based Services (W01).

#### A. Coverage Group Description

This group includes individuals who:

1. would be eligible for MAABD if residing in a long term care facility (LTCF); and
  2. qualify to receive home and community-based services under a waiver approved by the Centers for Medicare and Medicaid Services; and
  3. would, without such services, require care in an LTCF.
3. Section § 17a-215 (Formerly Sec. 19a-462) of the CGS designated the Department of Social Services as lead agency for autism spectrum disorder services. The Department of Social Services shall serve as the lead agency to coordinate, where possible, the functions of several state agencies which have responsibility for providing services to person diagnosed with autism spectrum disorder.
  4. The Appellant is on the Autism Medicaid Waiver waitlist.
  5. UPM § 8040.20 provides for Categorical Eligibility Requirements for the Connecticut Home Care Program For Elders.

#### A. Age

The individual must meet one of the following criteria:

1. be 65 years of age or older; or
2. on June 19, 1992, have been receiving services under the Home Care Demonstration Project previously operated by the former Department on Aging; or

3. as of June 30, 1992 have been receiving services from any of the following programs:
  - a. the Promotion of Independent Living for the Elderly Program previously operated by the Department on Aging; or
  - b. the Pre-admission Screening/ Community Based Services program formally operated by the Department of Income Maintenance.
6. The Appellant does not meet the categorical eligibility requirements for the Connecticut Home Care Program for Elders Medicaid Home, Community Base Waiver for Adults program.
6. The Department correctly denied the Appellant's application.

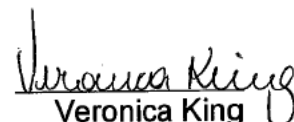
### DISCUSSION

The Appellant's father and representative testified that he was aware that the Appellant is on the waiting list for the ASD's waiver services. The autism waiver provides a variety of home-based services to eligible participants. Services provided through the waiver may include but are not limited to life skills, respite, behavioral services, social skills group and community mentors. The ASD waiver program is not an entitlement program. Services waiver slots and access to services under the ASD program is limited based on available funding and program capacity. The Appellant is on the ASD waiver list since [REDACTED] and his father is seeking clarification regarding the Appellant's position on the waiting list and more information and guidance regarding the program.

The Department correctly determined that at this time the Appellant is not eligible for the Connecticut Home Care Program for Elders Medicaid Home, Community Base Waiver for Adults program.

### DECISION

The Appellant's appeal DENIED.

  
Veronica King  
Hearing Officer

Cc: Brian Sexton, Operations Manager, DSS R.O. #50 Middletown  
Ebony Jackson, Hearing Liaison

### **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.

### **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.