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

[redacted]
Signature Confirmation

REQUEST [redacted]

CLIENT ID [redacted]
CASE ID [redacted]

NOTICE OF DECISION

PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted] 2017, the Department of Social Services (the "Department") sent [redacted] (the "Appellant") a Notice of Discontinuance stating that the Appellant's medical assistance under the Medicaid ("HUSKY C/S99 Spenddown") program would be discontinued on [redacted] 2017, because the value of her assets exceeded the allowable asset limit for the Medicaid program.

On [redacted] 2017, the Appellant requested an administrative hearing to contest the Department's discontinuance of her medical assistance under the Medicaid (HUSKY C) program.

On [redacted] 2017, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice of Administrative Hearing scheduling a hearing for [redacted] 2017 @ 9:00 AM.

On [redacted] 2017, in accordance with sections 17b-60, 17b-61, and 4-176e to 4-184, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing to address the Department's discontinuance of the Appellant's medical assistance under the Medicaid (HUSKY C) program.

The following individuals were present at the hearing:

[redacted] Appellant
Michael Ober, Representative for the Department

Hernold C. Linton, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Appellant is ineligible for medical assistance under the Medicaid (HUSKY C) program, due to excess assets.

FINDINGS OF FACT

1. The Department conducted a review of the Appellant's on-going eligibility for medical assistance under Medicaid (HUSKY C) program. (Hearing Summary)

2. The Appellant reported a checking account at the Chelsea Groton Bank with an ending balance of $3,682.82 as of [redacted] 2017. (Hearing Summary; Dept.'s Exhibit #2: Customer Statement)

3. The Appellant reported a savings account at the Chelsea Groton Bank with an ending balance of $2,646.67 as of [redacted] 2017. (Hearing Summary; Dept.'s Exhibit #2)

4. The Department subtracted the Appellant's monthly income deposited into her checking account at the Chelsea Groton Bank from the highest balance to determine the countable balance of $6,329.00. (Hearing Summary)

5. On [redacted] 2017, the Department discontinued the Appellant's medical assistance under the Medicaid (HUSKY C) program, effective [redacted] 2017, due to the value of her assets exceeding the allowable asset limit for the program. (Hearing Summary; Dept.'s Exhibit #3: [redacted]17 Notice of Action)

6. The Appellant has a checking account at the Chelsea Groton Bank with a countable ending balance of $2,580.82, after the subtraction of her income for the month. (Hearing Summary; Dept.'s Exhibit #2)

7. The Appellant has a savings account at the Chelsea Groton Bank with a countable ending balance of $2,646.62. (Hearing Summary; Dept.'s Exhibit #2)

8. The Appellant has total countable assets of $5,227.44. (See Facts # 1 to 7)

9. The Appellant lives alone, and has an assistance unit consisting of one (1) member. (Appellant's testimony)

10. The Appellant receives $1,102.00 per month in gross Social Security (SSA) disability benefits. (Appellant's testimony; Dept.'s Exhibit #3)

11. Since [redacted]2016, the Appellant has been out of work on a medical leave. (Appellant's testimony)

12. The Appellant has access to the funds in her accounts at the Chelsea Groton Bank. (Appellant's testimony; Hearing Summary)

13. The Appellant is the legal owner of the funds in her accounts at the Chelsea Groton Bank. (Appellant's testimony; Hearing Summary)

14. The Appellant uses the funds in her accounts at the Chelsea Groton Bank to meet her needs and for her general support. (Appellant's testimony)

15. The allowable asset limit for the Medicaid (HUSKY C) program is $1,600.00 per month. (Hearing Summary)

16. The combined equity value of the Appellant's accounts at the Chelsea Groton Bank exceeds the allowable asset limit for the Medicaid (HUSKY C) program. (Hearing Summary)

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.

2. Uniform Policy Manual ("UPM") Section 2540.85 provides that there are two distinct groups of employed individuals between the ages of 18 and 64 inclusive who have a medically certified disability or blindness and who qualify for Medicaid as working individuals with disabilities. These groups are the Basic Insurance Group and the Medically Improved Group. There is a third group of employed individuals consisting of persons at least 18 years of age who have a medically certified disability or blindness who also qualify for Medicaid as working individuals with disabilities. This is the Balanced Budget Act Group. Persons in this third group may be age 65 or older.

   A. Basic Insurance Group

      An individual in this group, which is authorized under the Ticket to Work and Work Incentives Improvement Act of 1999 (TWWIIA), is subject to the conditions described below.

      1. An individual in this group must be engaged in a substantial and reasonable work effort to meet the employment criterion.
         a. Such effort consists of an activity for which the individual receives cash remuneration and receives pay stubs from his or her employer.
         b. If the individual is self-employed, he or she must have established an account through the Social Security Administration and must

make regular payments based on earnings as required by the Federal Insurance Contributions Act.

c. An individual who meets the employment criterion but then loses employment through no fault of his or her own, for reasons such as a temporary health problem or involuntary termination, continues to meet the employment criterion for up to one year from the date of the loss of employment. The individual must maintain a connection to the labor market by either intending to return to work as soon as the health problem is resolved, or by making a bona fide effort to seek employment upon an involuntary termination.

2. The individual meets the income eligibility test under this group by passing one of the following income tests:

   a. having a gross monthly income equal to or less than $6250; or
   b. having an applied monthly income (gross income minus the following: a $20 general disregard; the first $65 of gross monthly earnings; Impairment Related Work Expenses described at UPM 5035.10 C, if applicable; and 1/2 the remaining earnings) equal to or less than $3082.50.

3. The asset criteria for this group are as follows:

   a. The asset limit is $10,000.00 for an individual and $15,000.00 for a married couple living together.
   b. In addition to the assets excluded under the Medicaid program, the following assets are also excluded:
      (1) retirement and medical savings accounts established pursuant to 26 USC 220 and held by either the individual or his or her spouse; and
      (2) accounts held by the individual or spouse and designated by such person as being held for the purpose of buying goods or services that will increase the employability of the individual. Such accounts are subject to the approval of the Department.
   c. The assets excluded in section 2540.85(A)(3)(b) retain their excluded status for the life of the individual, even if he or she loses eligibility under this coverage group.

3. The Appellant is no longer eligible for medical assistance under the Medicaid (HUSKY C) program as a working disabled individual, due to the loss of her employment activity twelve (12) months or one year ago. Therefore, she is no longer eligible for the $10,000.00 asset limit criteria.

4. UPM § 2540.96(A) provides that this group includes individuals who:

1. meet the MAABD categorical eligibility requirements of age, blindness or
   disability; and
2. are not eligible as categorically needy; and
3. meet the medically needy income and asset criteria.

5. UPM § 2540.96(B) provides that individuals qualify for Medicaid as medically needy under this coverage group for every month that they meet all of the above conditions.

6. UPM § 2540.96(C) provides that the Department uses the MAABD medically needy income and asset criteria to determine eligibility under this coverage group, including:

   1. medically needy deeming rules;
   2. the Medically Needy Income Limit (MNIL);
   3. the income spend-down process;
   4. the medically needy asset limits.

7. UPM § 4005.05(A) provides that for every program administered by the Department, there is a definite asset limit.

8. UPM § 4005.05(B)(1) provides that the Department counts the assistance unit's equity in an asset toward the asset limit if the asset is not excluded by state or federal law and is either:

   a. available to the unit; or
   b. deemed available to the unit.

9. UPM § 4030.05(A) provides that bank accounts include the following. This list is not all inclusive.

   1. Savings account;
   2. Checking account;
   3. Credit union account;
   4. Certificate of deposit;
   6. Patient account at long-term care facility;
   7. Children's school account;
   8. Trustee account;
   9. Custodial account.

10. UPM § 4030.05(B)(2) provides that that part of a checking account to be considered as a counted asset during a given month is calculated by subtracting the actual amount of income the assistance unit deposits into the account that month from the highest balance in the account for that month.

11. The Department correctly subtracted the Appellant's income deposited into her checking account from the highest balance to determine her counted asset.

12. UPM § 4005.05(B)(2) provides that under all programs except Food Stamps, the Department considers an asset available when actually available to the individual or when the individual has the legal right, authority or power to obtain the asset, or to have it applied for, his or her general or medical support.

13. The Department correctly determined that the Appellant has the legal right and authority to have the funds in her accounts at the Chelsea Groton Bank applied to general and/or medical needs.

14. UPM § 4005.05(D)(1) provides that the Department compares the assistance unit's equity in counted assets with the program asset limit when determining whether the unit is eligible for benefits.

15. UPM § 4005.05(D)(2) provides that an assistance unit is not eligible for benefits under a particular program if the unit's equity in counted assets exceeds the asset limit for the particular program, unless the assistance unit is categorically eligible for the program and the asset limit does not apply (cross reference: 2500 Categorically Eligibility Requirements).

16. UPM § 4005.10 provides that the Medicaid asset limit for a needs group of one is $1,600.00 per month.

17. UPM § 4015.05(B)(1) provides that the burden is on the assistance unit to demonstrate that an asset is inaccessible.

18. The equity in the Appellant's accounts at the Chelsea Groton Bank is accessible and available to meet the Appellant's needs.

19. The Department correctly determined that the Appellant's countable assets exceeded the asset limit of $1,600.00 per month for Medicaid (HUSKY C) program.

20. The Appellant is ineligible for medical assistance under the Medicaid (HUSKY C) program due to excess assets.

21. The Department correctly discontinued the Appellant's medical assistance under Medicaid (HUSKY C) program, effective [redacted] 2017, due to excess assets.

DISCUSSION

The Appellant argued that the Department reduced her asset limit from $10,000.00 to $1,600.00 without giving her proper notice. However, the Appellant has been out of work for one year, and as a result, she is no longer eligible for medical assistance under

the HUSKY C program for the working disabled, which has a $10,000.00 asset limit. The Appellant also claimed that with the payment of her unpaid bills, the funds in her accounts will no longer exceed the allowable asset limit for the Medicaid program. However, the policy does not allow for the subtraction of unpaid bills to determine the equity value of her accounts. Therefore, the undersigned finds that the funds held in the Appellant's accounts exceed the Medicaid asset limit of $1,600.00 per month.

The Appellant has to appropriately reduce the combined balance in her accounts to $1,600.00, and to reapply for medical assistance as soon as possible.

DECISION

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

Hernold C. Linton
Hearing Officer

Pc: **Tyler (Elizabeth) Nardine,** Social Service Operations Manager, DSS, R.O. # 40, Norwich

Fair Hearing Liaisons, DSS, R.O. #40, Norwich

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.