

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

██████████, 2019
Signature Confirmation

Client Id. # ██████████
Request # ██████████

NOTICE OF DECISION

PARTY

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██████████
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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 assistance under the HUSKY C Working Disabled Program ("S05").

On ██████████, 2018, the Appellant requested an administrative hearing 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 of scheduling the administrative hearing for ██████████, 2018.

On ██████████, 2018, in accordance with Connecticut General Statutes § 17b-60, 17b-61 and § 4-176e to § 4-184, inclusive, OLCRAH held an administrative hearing.

The following individuals were present at the hearing:

██████████, Appellant
Jacqueline Taft, Department Representative
Marci Ostroski, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether the Department's decision to discontinue the Appellant's S05 Medicaid was correct.

FINDINGS OF FACT

1. The Appellant has been active on the S05 HUSKY for the Working Disabled since [REDACTED] 2016 as an assistance unit of one. (Hearing Record, Appellant's testimony)
2. The Appellant was employed as a substitute teacher. (Appellant's testimony)
3. The Appellant is no longer employed; her last day of work was [REDACTED], 2017. (Hearing Summary, Appellant's testimony)
4. The Appellant intends to return to work. (Appellant's testimony)
5. The Appellant does not have a disability determination through the Social Security Administration and is not disabled. (Appellant's testimony)
6. The Appellant receives gross Social Security Retirement ("SSA") benefits of \$445.00 per month and a pension of \$965.27 per month. (Ex. 1: Notice of Action, [REDACTED]/18)
7. The Appellant was [REDACTED] years old (D.O.B [REDACTED]) as of the date of the hearing. (Appellant's testimony)
8. On [REDACTED] 2018, the Department sent the Appellant a notice discontinuing the Appellant's S05 effective [REDACTED], 2018 as the 12 month extension has ended and granting a HUSKY C Medically Needy, Aged, Blind, Disabled Spenddown with a spenddown amount of \$0. (Ex. 1: Notice of Action, [REDACTED]/18)
9. The issuance of this decision is timely under section 17b-61(a) of Connecticut General Statutes, 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], 2019 and is therefore timely. (Hearing Record)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Status authorizes the Commissioner of the Department of Social Services to administer the Medicaid program.

2. Conn. Gen. Stats § 17b-597(a) authorizes the Department of Social Services to establish and implement a working persons with disabilities program to provide medical assistance as authorized under 42 USC 1396a(a)(10)(A)(ii), as amended from time to time, to persons who are disabled and regularly employed.
3. Uniform Policy Manual (“UPM”) § 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 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.
4. UPM § 2540.85 (C) provides: An individual in this group, which is authorized under the Balanced Budget Act of 1997 (BBA), is subject to the same conditions described in section 2540.85 A. concerning employment status, income eligibility tests, asset eligibility tests and computation of premiums. An individual in this group who is age 65 or older is eligible for Medicaid as long as he or she meets all the eligibility requirements of section 2540.85 A. and has a medically certified disability or blindness. An individual in the Balance Budget Act Group is subject to the same conditions described in 2540.85(A) concerning employment status.
5. UPM § 2530.05(C) provides that under the Medicaid coverage group “Working Individual with Disabilities,” the individual must have a medically determinable impairment. However, the individual’s ability to perform substantial gainful activity has not effect on the disability determination. (Cross Reference 2540.85)
6. The Department incorrectly determined that the Appellant originally qualified for S05 as part of the Balanced Budget Act Group as she does not have a certified disability.
7. UPM § 2540.85(A)(1)(a) provides in part; an individual in the Basic Insurance Group must be engaged in substantial and reasonable work effort to meet the employment criterion.
8. UPM § 2540.85 (A)(1)(c) provides that 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.


9. The Department correctly discontinued the Appellant's S05 Medicaid, [REDACTED], 2018, one year after the Appellant's loss of employment on [REDACTED] 2017.

DISCUSSION

The Department's action to close the Working Disabled program for exhausting the one year extension is supported by regulation and is upheld by this decision. The Notice of Action reflects that the Department subsequently placed the Appellant into an active Medicaid spenddown coverage group. The Department testified that this action was in error and is working with the Appellant to determine her ongoing eligibility. The Department is required to provide the Appellant with a new Notice of Action and afford new appeal rights if it makes any further changes to her eligibility

DECISION

The Appellant's appeal is **DENIED**



Marci Ostroski
Hearing Officer

CC: Rachel Anderson, Operations Manager New Haven
Lisa Wells, Operations Manager, New Haven
Cheryl Stuart, Operations Manager, New Haven
Jacqueline Taft, 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, law, and 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 06105-3730.

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, if 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 06105-3730. 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.