

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

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

**NOTICE OF DECISION**

**PARTY**

██████████  
██████████  
██████████

**PROCEDURAL BACKGROUND**

On ██████████ 2019, the Department of Social Services (the "Department") issued a Notice of Action ("NOA") to ██████████ (the "Appellant") denying her Medicaid benefits under the HUSKY C-Aged, Blind and Disabled program for Home And Community Based Services ("W01") because he does not meet the program requirements.

On ██████████ 2019, the Appellant requested an administrative hearing to contest the Department's decision to deny Medicaid benefits.

On ██████████ 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████ 2019.

On ██████████ 2019, 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  
██████████, Appellant's Witness  
Paula Wilczynski, Department Representative (observer)  
Brenda Arrington, Department Representative (via telephone)  
Sybil Hardy, Hearing Officer

## **STATEMENT OF THE ISSUE**

The issue is whether the Department was correct when it denied the Appellant's application for Medicaid benefits under the W01 program because she did not meet the program requirements.

## **FINDINGS OF FACT**

1. The Appellant is a 58 year old [REDACTED] individual. (Appellant's Testimony)
2. During [REDACTED] 018, the Appellant had a stroke and was hospitalized admitted to [REDACTED] Hospital in [REDACTED], Connecticut. (Appellant's Testimony)
3. The Appellant was admitted to [REDACTED] in [REDACTED], Connecticut after being leaving the hospital. He was discharged home two weeks later and received two weeks of nursing services at home. (Appellant's Testimony)
4. The Appellant is independent of all activities of daily living ("ADL's"). (Appellant's Testimony)
5. The Appellant was employed prior to the stroke but has not been able to return to employment. (Appellant's Testimony)
6. During [REDACTED] 2019, the Appellant applied for Social Security Disability benefits and his application is pending. (Appellant's Testimony)
7. On [REDACTED] 2019, the Department received an application from the Appellant for Medicaid benefits under the W01 program. (Hearing Record, Exhibit 7: Application, [REDACTED]/19)
8. On [REDACTED] 2019, the Department sent a verification request to the waiver programs to determine if the Appellant was on the waitlist for any of the waiver programs. (Hearing Record, Exhibit 8: Department E-mail Correspondence to Waiver Units and Responses)
9. The only waiver program without a waitlist or cap is the Connecticut Home Care Program for Elders ("CHCPE"). (Hearing Record)
10. On [REDACTED] 2019 the Department determined that the Appellant was not on the waitlist of any waiver program and he was not 65 years or older, therefore he is not eligible for benefits under the Medicaid W01 program because he did not meet the eligible program requirements. (Hearing Record, Exhibit 5: MA Notice Reasons)

11. On [REDACTED] 2019, the Department sent the Appellant a NOA denying his application for W01 benefits because he did not meet the program requirements. Exhibit 4: NOA, [REDACTED] 19)
12. The Appellant receives medical assistance under the Access Health program. (Hearing Record, Department Representative's Testimony)

### **CONCLUSIONS OF LAW**

1. Section 17b-260 of the Connecticut General Statutes provides for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Uniform Policy Manual ("UPM") section 2540.92 provides that individuals receiving home and community based services coverage group are those 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. UPM § 2540.92(B) provides that individuals qualify for Medicaid a categorically needy for as long as they meet the conditions above and receive home and community-based services under a waiver.

**The Department correctly determined that the Appellant is not on the waitlist for any waiver program and does not meet the criteria for the W01 coverage group.**

4. UPM § 8540 provides that the Connecticut Home Care Program of Elders provides an alternative to the elderly individual who is inappropriately institutionalized or at risk of institutionalization as long as the individual is not taking an unacceptable risk by putting his or her life and health and that of others in immediate jeopardy.
5. UPM § 8540.20 provides that the for the categorical eligibility requirements of the Connecticut Home Care Program for Elders the individual must be 65 years of age or older.

**The Department correctly determined that the Appellant does not meet the age requirement of CHCPE.**

**The Department correctly denied the Appellant's application for Medicaid under the W01 program because the Appellant does not meet the program requirements.**

**DECISION**

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

  
Sybil Hardy  
Hearing Officer

Pc: Rachel Anderson, Operations Manager, DSS R.O. # 20, New Haven  
Cheryl Stuart, Operations Manager, DSS R.O. # 20, New Haven  
Lisa Wells, Operations Manager, DSS R.O. # 20, New Haven  
Brenda Arrington, Fair Hearing Liaison, DSS R.O. # 10, Hartford

### **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.