

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**

██████████  
██████████  
██████████  
██

**PROCEDURAL BACKGROUND**

On ██████████, 2019, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") denying her application for the Home and Community Based Services under the Husky C ("W01") Medicaid program.

On ██████████ 2019, the Appellant requested an administrative hearing to contest the Department's decision to deny such 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 Authorized Representative  
Kimberly Phillips, Dept. of Developmental Services ("DDS") support worker  
Amelia Lezon, LTC Fair Hearing liaison, Department Representative  
Gary Sardo, Department's hearing facilitator  
Almelinda McLeod, Hearing Officer

## **STATEMENT OF THE ISSUE**

The issue to be decided is whether the Department's decision to deny the Appellant's application for Home Care services under the Husky C W01 program was correct.

## **FINDINGS OF FACT**

1. The Appellant is [REDACTED] years old (DOB [REDACTED]) and has Down syndrome. (Hearing record)
2. The Appellant resides with the authorized representative, (A-Rep) [REDACTED]. The Appellant is a household of one. (Hearing record)
3. The A-Rep provided care for the Appellant for the last 8 years with the help of her spouse and the Appellant's sister. Due to a recent loss of her spouse and the help from Appellant's sister who suffers from a systematic auto immune disease, the assistance is no longer available. The authorized representative quit her job in order to provide care to the Appellant herself in the last 8 months. (Appellant's testimony)
4. On [REDACTED] 2019, the Department e-mailed the contact person for the Mental Health, Acute Brain Injury ("ABI"), Personal Care Assistance ("PCA"), Department of Developmental Disabilities ("DDS"), and Autism Spectrum Disorder ("ASD") Waivers requesting if the Appellant was known to any of the waiver programs and was she was on any of the wait list. (Hearing summary)
5. On [REDACTED], 2019, the contact person, Brenda Providence for the Mental Health waiver informed the Department that the Appellant was not known to their program nor was she on their wait list. (Exhibit 4 e-mail correspondence)
6. On [REDACTED] 2019, the contact person, Paul Chase for the ABI and PCA waiver programs informed the Department that the Appellant was not known and was not on the wait list. (Exhibit 4 – e-mail correspondence)
7. On [REDACTED], 2019, the contact person for the ASD waiver informed the Department that the Appellant was not known and was not on the ASD wait list. (Exhibit 4 e-mail correspondence)
8. On [REDACTED] 2019, the contact person for the DDS waiver program informed the Department that the Appellant was known to DDS, but

did not have a case manager assigned and did not have any waiver services at that time. The contact person suggested the Appellant was looking for community Husky C. (Exhibit 4 – e-mail correspondence)

9. The only waiver program offered by the Department that does not have a wait list or cap to the number of people which can be served is the Connecticut Home Care Program for Elders. (Hearing summary)
10. The Department determined that the Appellant does not qualify for the Connecticut Home Care Program for Elders program because she does not meet the age requirement of 65 years and older. (Hearing summary)
11. On [REDACTED] 2019 the Department issued a Notice of Action (“NOA”) denying the Appellants application for the W01 Home and Community Based Services for Home Care Services because she did not meet the age requirement and secondly because she was not on any Waiver waitlist. (Hearing summary and Exhibit 1, NOA)
12. The issuance of this decision is timely under Connecticut Statutes 17b-61 (a), which requires that a decision must be issued within 90 days of receipt of a request for an administrative hearing. The Appellant requested an administrative hearing on [REDACTED] 2019; therefore, this decision is due not later than [REDACTED] 2019.

### **CONCLUSIONS OF LAW**

1. Section 17b-2 and § 17b-260 of the Connecticut General Statutes, 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”) § 2540.90 (A) provides the 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 a LTCF.
3. UPM § 2540.92 (B) provides that individuals qualify for Medicaid as categorically needy for as long as they meet the conditions above and receive home and community based services under a waiver.

4. Section 17b-283-3 (23) of the Regulations of Connecticut State Agencies provide in part, the definition of "waiting list" means the record maintained by the Department, after the program reaches the maximum capacity permitted under the waiver .
5. **The Department correctly determined that the Appellant was not on a wait list for any waiver programs (Mental Health, ABI, PCA, DDS or Autism) and was not receiving any waiver services, thus does not meet the criteria for the W01 Home and Community Based services coverage group.**
6. UPM § 8040.20 (A) (1) provides that one of the Categorical Eligibility Requirements for the Connecticut Home Care Program for Elders is Age. The individual must be 65 years of age or older.
7. UPM 2525.15 (B) provides to meet the age requirement for State Supplement and related Medicaid based on old age, the individual must be sixty-five (65) years of age or older.
8. **The Appellant does not meet the categorical eligibility requirements for the Connecticut Home Care Program for Elders Medicaid because she does not meet the age requirement.**
9. **The Department correctly denied the Appellant's application for the Medicaid under the W01 program because the Appellant does not meet the program requirements.**

### **DECISION**

The Appellant's appeal is DENIED

  
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Almelinda McLeod  
Hearing Officer

CC: Patricia Ostroski, SSOM, New Britain Regional Office  
Amelia Lezon, SSOM, Long Term Care Fair Hearing Liaison, 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 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.