

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

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

Client ID # ██████████
Request # 144398

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2019, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") terminating her medical benefits under the Husky C Working Disabled Program ("Husky C S05") effective ██████████ 2019.

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, 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:

██████████ Appellant
Nadia Karachristos, Department Representative
Lisa Nyren, Fair Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Appellant's application for continued medical benefits under the Husky C S05 program effective [REDACTED] 2019 was correct.

FINDINGS OF FACT

1. The Appellant received medical benefits under the Husky C S05 program for herself which closed on [REDACTED] 2019 for the reasons "you did not return all of the required proofs by the date we asked and does not meet program requirements." (Exhibit 7: Notice of Action)
2. On [REDACTED] 2019, the Appellant reapplied for medical benefits under the Husky C S05 program for herself. (Exhibit 9: Eligibility Determination Document)
3. The Appellant is not employed. The Appellant last worked as a self-employed independent contractor with [REDACTED] ("employer") on [REDACTED] 2017. (Exhibit 3: Employer's Letter, Exhibit 9: Eligibility Determination Document, and Appellant's Testimony)
4. The Appellant is disabled and receives Social Security disability benefits of \$1,159.00 per month. (Exhibit 9: Eligibility Determination Document and Appellant's Testimony)
5. The Department determined the Appellant ineligible for the Husky C S05 program because the Appellant has not worked since [REDACTED] 2017. Eligibility under the Husky C S05 program requires the applicant/recipient to be employed. (Department Representative's Testimony)
6. On [REDACTED] 2019, the Department issued the Appellant a notice of action informing the Appellant the Husky C benefits remain closed effective [REDACTED], 2019 for the reason "you did not return all of the required proofs by the date we asked and does not meet program requirements." (Exhibit 11: Notice of Action)
7. The Department granted medical benefits under the Medicaid spenddown program effective [REDACTED], 2019. (Department Representative's Testimony)
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] 2019. Therefore, this decision is due not later than [REDACTED] 2019.

CONCLUSIONS OF LAW

1. Section 17b-2(6) of the Connecticut General Statutes provides that the Department of Social Services is designated as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.
2. “The department’s uniform policy manual is the equivalent of a state regulation and, as such, carries the force of law.” *Bucchere v. Rowe*, 43 Conn. Supp. 175, 178 (1994) (citing Conn. Gen. Stat, § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A.2d 712(1990))
3. Section 2540.85 of the Uniform Policy Manual (“UPM”) 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.

B. Medically Improved Group

1. An individual in this group, which is authorized under the Ticket to Work and Work Incentives Improvement Act of 1999 (TWWIIA), must have been eligible for Medicaid pursuant to paragraph A above, but must have lost such eligibility because of a medical improvement determined at the time of a regularly scheduled continuing disability review.
 2. An individual in the Medically Improved group is subject to the same conditions described in section 2540.85 A.2. through 4. concerning the income eligibility tests, asset eligibility tests, and computation of premiums.
 3. The eligibility requirements with respect to disability status and the definition of employment are as follows for individual in the Medically Improved group:
 - a. The individual must continue to have a severe medically determinable impairment. However, the impairment does not need to meet the medical criteria to the same extent as for those in the Basic Insurance group.
 - b. The individual meets the employment criterion if he or she is earning a monthly wage equal to or greater than the federal minimum hourly wage times 40. There is no extension of coverage under this group once the individual loses employment.
- C. Balanced Budget Act Group
1. 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 2540.85A. concerning employment status, income eligibility test, asset eligibility tests and computation of premiums.
 2. 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 2540.85A. and has a medically certified disability or blindness.
4. "The Department may complete the eligibility determination at any time during the application process when: adequate information exists to determine ineligibility because one or more eligibility requirements are not satisfied." UPM § 1505.40
 5. On ██████ 2019, the Department correctly determined the Appellant ineligible for medical assistance under the Husky C S05 program and issued a notice of action. However the reason as outlined in the notice of action dated ██████ 2019 listing "you did not return all of the required proofs by the date we asked" is not accurate. The second reason listed on the notice, 'does not meet program requirements' is valid because the Appellant does not meet the employment criteria under UPM § 2540.85 for the Husky C S05 program. The Appellant last worked in ██████ 2017. Under 2580.85(A)(1)(c), an individual may qualify for up to one year from the date of the loss of employment if the individual maintained a labor market connection or made a bona fide effort to seek employment. Based

on the hearing record, it is not clear if the Appellant maintained a connection to the labor marker or sought employment; however, the one year from the loss of employment expired [REDACTED] 2018, during which time the Appellant received Husky C S05 benefits through their termination on [REDACTED] 2019. On [REDACTED] 2019, the Department correctly determined the Appellant's Husky C S05 benefits remained closed effective [REDACTED] 19.

DECISION

The Appellant's appeal is denied.



Lisa A. Nyren
Fair Hearing Officer

CC: Rachel Anderson, DSS RO 20
Cheryl Stuart, DSS RO 20
Lisa Wells, DSS RO 20
Nadia Karachristos, DSS RO 20

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.