

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

HEARING REQUEST #147281

CASE ID ██████████  
CLIENT ID ██████████

**NOTICE OF DECISION**

**PARTY**

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

**PROCEDURAL BACKGROUND**

On ██████████ 2019, the Department of Social Services (the “Department”; or “DSS”), sent ██████████ (the “Appellant”) a Notice of Action stating that the Appellant’s medical assistance under the HUSKY C (“S05, Working Disabled”) program would be discontinued, effective ██████████ 2019, because of no eligible household members, his 12 months extension has ended, he does not meet program requirements, and that he must meet a spenddown amount of \$1,842.72 for the period of ██████████ 2019 through ██████████ 2020.

On ██████████ 2019, the Appellant requested an administrative hearing to contest the Department’s discontinuance of his medical assistance under the HUSKY C/S05 program.

On ██████████ 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a Notice of Administrative Hearing scheduling a hearing for ██████████ 2019 @ 1:30 PM to address the Department’s discontinuance of the Appellant’s medical assistance under the HUSKY C/S05 program.

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 to address the Department’s discontinuance of the Appellant’s medical assistance under the HUSKY C program.

The following individuals were present at the hearing:

██████████, Appellant  
Sara Hart, Representative for the Department

Sybil Hardy, Hearing Officer

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether the Appellant is ineligible for medical assistance under the HUSKY C ("S05, Working Disabled") program for failure to meet program requirements.

### **FINDINGS OF FACT**

1. On [REDACTED] 2019, the Appellant was determined eligible for medical assistance under the HUSKY C/S05-Working Disabled program, effective [REDACTED], 2019, based on his reported self-employment activity as a Personal Care Attendant ("PCA") for his father. (Hearing Summary; Dept.'s Exhibit #1: Case Notes)
2. On [REDACTED] 2019, the Department discontinued the Appellant's medical assistance under the HUSKY C/S05 program, effective [REDACTED], 2019, because of no eligible household members, his 12 months extension has ended, and he does not meet program requirements, and granted the Appellant medical assistance under the HUSKY C/S99 Medical Needy for the Aged, Blind, and Disabled ("MAABD") program with a spenddown amount of \$1,845.72 for the period of [REDACTED] 2019 through [REDACTED], 2020. (Hearing Summary; Dept.'s Exhibit #1; Dept.'s Exhibit # 2: [REDACTED] 19 Notice of Action)
3. On [REDACTED] 2019, the Department informed the Appellant that his medical assistance was placed in a spenddown status as his qualifying employment at [REDACTED] was terminated on [REDACTED] 2018, his one year extension ended [REDACTED] 2019, and his reported self-employment activity as a PCA is not a qualifying employment activity as FICA taxes are being deducted from his paycheck and he had already received his one year extension following the termination of his qualifying employment. (Hearing Summary; Dept.'s Exhibit #1)
4. The Appellant is [REDACTED] years of age (DOB [REDACTED]). (Hearing Summary)
5. The Appellant receives \$1,170.00 per month in gross Social Security ("SSDI") benefits as a disabled individual. (Hearing Summary)
6. The Appellant is not employed but is registered with [REDACTED], Inc. and is receiving guidance and assistance in finding employment. (Appellant's testimony; Appellant's Exhibit D: Letter from [REDACTED], Inc.)
7. The Appellant's medical assistance under the HUSKY C ("S05, Working Disabled") program was extended for an additional twelve (12) months from the date of the loss of his employment. (Hearing Summary)
8. 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 from the date of the request for an administrative hearing. The Appellant requested an

administrative hearing on [REDACTED] 2019. This decision, therefore, is 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. “The Department’s Uniform Policy Manual (“UPM”) is the equivalent of a state regulation and, as such, carries the force of law.” *Bucchere v Rowe*, 43 Conn Supp. 175 178 (194) (citing Conn. Gen. Stat. § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A. 2d712(1990)).
4. 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.
5. UPM § 2540.85(A) provides that 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 (“FICA”).
    - 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.

6. The Department correctly determined that the Appellant's self-employment activity as a PCA is not a qualifying employment activity as the Appellant is not making regular payments from his earnings into a FICA account through the Social Security Administration.
7. The Appellant continues to maintain a connection to the labor market with his enrollment with [REDACTED], Inc. and by attending the workshops at the [REDACTED] to enhance his employability skills.
8. The Department correctly extended the Appellant's medical assistance under the HUSKY C/S05 program for an additional 12 months ([REDACTED] 2018 through [REDACTED] 2019) after the termination of his qualifying employment activity.
9. The Department correctly discontinued the Appellant's medical assistance under the HUSKY C/S05 program, effective [REDACTED], 2019, for not meeting program requirements.

### **DECISION**

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

[REDACTED]

Hernold C. Linton  
Hearing Officer for Sybil Hardy

Pc: **Tonya Cook-Beckford**, Social Service Operations Manager,  
DSS, R.O. #42 Willimantic

**Fair Hearing Liaisons**, DSS, R.O. #42, Willimantic

### **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.