

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

██████████ 2020  
Signature confirmation

Case: ██████████  
Client: ██████████  
Request: 149716

**NOTICE OF DECISION**

**PARTY**

██████████  
██████████  
██████████

**PROCEDURAL BACKGROUND**

On ██████████ 2019, the Department of Social Services (the “Department”) issued a *Notice of Action* to ██████████ (the “Appellant”) denying his ██████████ 2019 HUSKY-C Medicaid application.

On ██████████ 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) received an administrative hearing request to dispute the denial.

On ██████████ 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) scheduled the Appellant’s administrative hearing for ██████████, 2019. The OLCRAH granted a postponement of the hearing.

On ██████████, 2020, in accordance with sections 17b-60, 17b-61, and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, the OLCRAH held an administrative hearing. The following individuals attended the administrative hearing:

██████████, Appellant  
██████████, ██████████, Appellant’s authorized representative  
Sasha-Gaye Binnie, Department’s representative  
Eva Tar, Hearing Officer

The hearing record closed ██████████, 2020.

## STATEMENT OF ISSUE

The issue to be decided is whether the Department correctly denied the Appellant's [REDACTED], 2019 HUSKY-C Medicaid application.

## FINDINGS OF FACT

1. The Appellant's date of birth is [REDACTED]. (Department Exhibit 1)
2. On [REDACTED] 2019, the Department received the Appellant's HUSKY-C Medicaid application, as signed by his authorized representative on [REDACTED] 2019. (Department Exhibit 1)
3. The Appellant's [REDACTED], 2019 HUSKY-C Medicaid application listed assets in his name totaling \$207,100.59: a [REDACTED] and a [REDACTED] retirement account. (Department Exhibit 1)
4. The Appellant had previously reported to the Department ownership of three bank accounts not listed on his [REDACTED] 2019 HUSKY-C Medicaid application. (Department Exhibit 2)
5. On [REDACTED] 2019, the Department issued a *Verification We Need* form to the Appellant and his authorized representative requesting the submission of the following by [REDACTED] 2019: the closure of two [REDACTED] accounts; the closure of a [REDACTED] account, and the contract for the [REDACTED] retirement account. (Department Exhibit 3)
6. The [REDACTED] 2019 *Verification We Need* form acknowledged that the Appellant's failure to submit the requested documentation by the deadline would result in the delay or denial of the Appellant's benefits. (Department Exhibit 3)
7. On [REDACTED] 2019, the Department extended the deadline for submission of documents to [REDACTED] 2019. (Department Exhibit 2)
8. As of [REDACTED] 2019, the Department had not received the items listed on the [REDACTED] 2019 *Verification We Need* form. (Department Exhibit 2)
9. On [REDACTED] 2019, the Department denied the Appellant's [REDACTED] 2019 HUSKY-C Medicaid application. (Department Exhibit 5)
10. Connecticut General Statutes § 17b-61 (a), as amended on passage by Section 309 of *Public Act No. 19-117 (January Session)*, in part provides that a final decision shall be rendered not later than 90 days from the date the Commissioner receives a request for a fair hearing pursuant to Conn. Gen. Stat. § 17b-60, provided the time for rendering a final decision shall be extended whenever the aggrieved person

requests or agrees to an extension, or when the Commissioner documents an administrative or other extenuating circumstance beyond the Commissioner's control.

On [REDACTED] 2019, the OLCRAH received the Appellant's hearing request. The Appellant's failure to appear for his scheduled [REDACTED] 2019 hearing caused that hearing to be postponed to [REDACTED] 2020. The hearing decision was due by [REDACTED] 2020. This final decision is timely.

### **CONCLUSIONS OF LAW**

1. Section 17b-2 of the Connecticut General Statutes in part designates the Department of Social Services as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.

"The Commissioner of Social Services may make such regulations as are necessary to administer the medical assistance program...." Conn. Gen. Stat. § 17b-262.

"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)).

2. Section 17b-80 (a) of the Connecticut General Statutes provides in part that "[t]he commissioner, upon receipt of an application for aid, shall promptly and with due diligence make an investigation, such investigation to be completed within forty-five days after receipt of the application or within sixty days after receipt of the application in the case of an application in which a determination of disability must be made...." and "[t]he commissioner, ... , shall in determining need, take into consideration any available income and resources of the individual claiming assistance...."

"Prior to making an eligibility determination, the Department conducts a thorough investigation of all circumstances relating to eligibility and the amount of benefits." Uniform Policy Manual ("UPM") § 1505.40 A.1.

**The Department had the authority under Conn. Gen. Stat. § 17b-80 (a) and UPM § 1505.40 A.1. to assess the Appellant's financial circumstances to determine whether he met the eligibility requirements of the HUSKY-C Medicaid program.**

3. "For every program administered by the Department, there is a definite asset limit." UPM § 4005.05 A.

The asset limit for the Medicaid program associated with recipients who are aged, blind, and/or disabled is \$1,600.00 for a needs group of one. UPM § 4005.10 A.2.a.

**The Appellant's assets as reported on his [REDACTED] 2019 HUSKY-C Medicaid application exceeded the HUSKY-C Medicaid program's \$1,600.00 asset limit for an individual.**

**As a condition of eligibility to participate in the HUSKY-C Medicaid program, the Appellant's counted assets must not exceed the program's \$1,600.00 asset limit.**

4. "For the purposes of determining eligibility for the Medicaid program, an available asset is one that is actually available to the applicant or one that the applicant has the legal right, authority or power to obtain or to have applied for the applicant's general or medical support...." Conn. Gen. Stat. § 17b-261 (c).

"The Department counts the assistance unit's equity in an asset toward the asset limit if the asset limit is not excluded by state or federal law and is either: a. available to the unit; or b. deemed available to the unit." UPM § 4005.05 B.1.

"An assistance unit is not eligible for benefits under a particular program if the unit's equity in counted assets exceeds the asset limit for the particular program, unless the assistance unit is categorically eligible for the program and the asset limit requirement does not apply." UPM § 4005.05 D.2.

**It cannot be determined from the hearing record whether the Appellant's [REDACTED] retirement account is: 1) a standard monthly pension that requires the Appellant to file paperwork with the plan's administrator to initiate monthly payments; 2) a deferred compensation plan from which the Appellant may withdraw irregular sums having met the plan's requirements of age; or 3) a different type of financial instrument.**

**The Appellant has not proven to the Department that the [REDACTED] retirement account is an asset that is excluded by state or federal law with respect to the HUSKY-C Medicaid asset limit.**

5. "The Department determines eligibility within the standard of promptness for the AFDC, AABD, and MA [Medicaid] programs except when verification needed to establish eligibility is delayed and one of the following is true: ... b. the client has been granted a 10 day extension to submit verification which has not elapsed...." UPM § 1505.35 D.2.b.

**The Department correctly gave the Appellant a written deadline of 10 days to submit requested verification of his financial circumstances.**

6. "The applicant's failure to provide required verification by the processing date causes: (1) one or more members of the assistance unit to be ineligible if the unverified circumstance is a condition of eligibility; or (2) the circumstance to be disregarded in the eligibility determination if consideration of the circumstance is

contingent upon the applicant providing verification.” UPM § 1505.40 B.1.c.

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 A.4.d.

**The Department correctly determined that the Appellant had failed to provide verification that he met a condition of financial eligibility—i.e. that the value of his assets did not exceed the HUSKY-C Medicaid program’s \$1,600.00 asset limit—by the Department’s [REDACTED] 2019 deadline.**

**The Department correctly denied the Appellant’s [REDACTED] 2019 HUSKY-C Medicaid application.**

**DECISION**

The Appellant’s appeal is DENIED.

*Eva Tar-electronic signature*  
Eva Tar  
Hearing Officer

Cc: [REDACTED]  
Sasha-Gaye Binnie, DSS-Hartford/Windsor  
Jay Bartolomei, DSS-Hartford/Windsor  
Musa Mohamud, DSS-Hartford/Windsor  
Judy Williams, DSS-Hartford/Windsor  
Jessica Carroll, DSS-Hartford/Windsor  
E. Tyler Nardine, DSS-Norwich  
Cheryl Stuart, DSS-Norwich

### **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.