

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATION AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CONNECTICUT 06105-3725

██████████ 2020
Signature Confirmation

CL ID # ██████████
Request ID #150280

NOTICE OF DECISION

PARTY

██████████

PROCEDURAL BACKGROUND

On ██████████, 2019, the Department of Social Services (the “Department”) sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) discontinuing his Husky C Medicaid for Employed Disabled (“S05”) program benefits effective for ██████████, 2019.

On ██████████, 2019, the Appellant requested an administrative hearing to contest the Department’s action.

On ██████████ 2019, the Office of Legal Counsel Regulations and Administrative Hearings (OLCHRAH) issued a Notice of Hearing scheduling the administrative hearing for ██████████, 2020.

On ██████████, 2020, in accordance with Connecticut General Statutes § 17b-60, 17b-61 and § 4-176e to § 4-184, inclusive, OLCRAH held an administrative hearing. The following individuals were present at the hearing:

██████████ Appellant
Princess O’Reggio, Department’s Representative
Joseph Alexander, Department’s Representative
Miklos Mencseli, Hearing Officer

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

STATEMENT OF ISSUE

The issue to be decided is whether the Department correctly discontinued the Appellant's Husky C Medicaid for Employed Disabled ("S05") program benefits.

FINDING OF FACTS

1. The Appellant is a recipient of Husky C Medicaid benefits under the Employed Disabled ("S05") program. (Summary)
2. On [REDACTED], 2019, the Appellant in the regional office to reapply for Husky C benefits as they closed due to the renewal process not being completed timely. (Summary, Exhibit 2: Department's Case Notes)
3. The Appellant at the time of reapplication was [REDACTED] years old (DOB: [REDACTED]). (Appellant's Testimony)
4. On [REDACTED], 2019, the Appellant reported he is currently not employed. (Exhibit 2)
5. The Appellant voluntarily retired from [REDACTED] effective [REDACTED], 2019. (Summary, Exhibit 1: Retirement Plan for Employees of [REDACTED] document, Appellant Testimony)
6. The Appellant receives monthly Social Security benefits and a monthly annuity from [REDACTED]. (Exhibit 1, Exhibit 7: NOA dated [REDACTED]-19)
7. The Appellant is currently not employed. (Exhibit 3: Department's Earned Income – Summary printout, Exhibit 4: Department's DOL Wage Details printout, Appellant's Testimony)
8. The Appellant has had no employment since his retirement from [REDACTED]. (Exhibit 4, Appellant's Testimony)
9. The Appellant is seeking employment that is light duty. (Appellant's Testimony)
10. The Appellant is registered with the Connecticut Department of Labor ("DOL") job center. (Appellant's Exhibit A: DOL printout)
11. On [REDACTED], 2019, the Appellant's Husky C Medicaid for Employed Disabled benefits closed. The Appellant granted Husky C medical with a spend-down amount of \$771.72 effective for [REDACTED] 2020. (Summary, Exhibit 7: NOA dated [REDACTED]-19, Department's Testimony)
12. 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], 2020.

CONCLUSION OF LAW

1. Section 17b-2 of the Connecticut General Statutes (“Conn. Gen. Stats”) 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.

“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 Maintenance*, 214 Conn. 601, 573 A.2d (1990)).

3. Uniform Policy Manual (UPM) Section 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 a medically certified disability or blindness who also qualify for Medicaid as working individuals with disabilities. This is the Balanced Budget Act Group.
4. UPM § 2540.85(C) provides for the 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 2540.85 A. concerning employment status, income eligibility tests, 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 2540.85 A. and has a medically certified disability or blindness.**


5. The Department correctly determined the Appellant is eligible for the Balanced Budget Act Group as he is age 65 or older and was employed by [REDACTED]
6. UPM § 2540.85(A) (1) provides an individual in this group must be engaged in a substantial and reasonable work effort to meet the employment criterion.
7. The Appellant voluntarily retired from his employment at Bridgeport Hospital.
8. UPM § 2540.85(A) (1) (c) provides 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.**
9. The Department correctly discontinued the Appellant's Husky C Medicaid for Employed Disabled as the Appellant is not employed.
10. The Department correctly determined the Appellant is not eligible for the one year extension as he voluntarily retired from employment.

DISCUSSION

The Department correctly determined the Appellant is no longer eligible for the Husky C Medicaid for Employed Disabled. The Appellant no longer meets the employment criteria. The Appellant has not been employed since his retirement date of [REDACTED] 2019. The Appellant was unable to continue to perform his duties in Environmental Services due to his medical condition. The Appellant had hernia surgery, has lumber disc and torn knee ligament. The Appellant voluntarily retired due to these medical conditions. Due to his voluntary retirement he is not eligible for the one year extension. The Appellant is currently seeking employment which would involve light duty. If the Appellant does find employment he should reapply for the Husky C Medicaid for Employed Disabled program.

DECISION

The Appellant's appeal is Denied.


Miklos Mencseli
Hearing Officer

C: Fred Presnick, Operations Manager, DSS R.O. # 30 Bridgeport

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.