

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

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

Client ID # ██████████
Request # 150718

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 Medicaid under the Husky C – Medically Needy Aged, Blind, and Disabled program (“Husky C”) effective ██████████ 2019.

On ██████████, 2019, the Appellant requested an administrative hearing to contest the Department’s decision to deny such benefits.

On ██████████, 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2020.

On ██████████ 2020, 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
Debra James, 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 Medicaid under Husky C effective [REDACTED] 2019 was correct.

FINDINGS OF FACT

1. On [REDACTED], 2019, the Appellant completed an application for Husky C at the Department's Regional Office. The application lists the following assets: three cars - 2006 Toyota Camry Solara SE/SLE ("Toyota"), 2008 Buick Enclave CXL ("Buick"), and 2002 Dodge Neon ES ("Dodge"), a checking account, and a Direct Express account. (Exhibit 1: Eligibility Determination Document, Exhibit 6: Vehicle Search, and Exhibit 7: DMV Inquiry)
2. The Appellant owns the 2006 Toyota for which she makes monthly loan payments to [REDACTED] (the "bank"). The Appellant presented a copy of the bank letter that threatened repossession to the Department at the time of application for Husky C. (Appellant's Testimony, Exhibit 6: Vehicle Search, and Exhibit 7: DMV Inquiry)
3. The Department of Motor Vehicle ("DMV") records list the Appellant owns the following motor vehicles: 2006 Toyota, 2008 Buick, and 2002 Dodge. (Exhibit 6: Vehicle Search and Exhibit 7: DMV Inquiry)
4. The Appellant receives social security disability benefits which the Social Security Administration electronically deposits in the Appellant's Direct Express account monthly. (Appellant's Testimony)
5. The Department completes a review of an applicant's assets prior to making an eligibility decision for Husky C. (Department Representative's Testimony)
6. On [REDACTED] 2019, the Department issued the Appellant a W-1348 Proofs We Need ("W1348") form. The Department requested proof of the Appellant's checking account balance and proof of motor vehicle ownership. The Department listed the due date for the information as [REDACTED] 2019. (Exhibit 2: Proofs We Need and Exhibit 3: Case Notes)
7. The Department did not receive the requested information from the Appellant by the [REDACTED] 2019 due date. (Hearing Record)

8. The Appellant did not submit the requested information by the [REDACTED] 2019 due date. (Appellant's Testimony)
9. The Appellant did not contact the Department. (Appellant's Testimony)
10. The Appellant did not request additional time to submit requested documentation from the Department. (Appellant's Testimony)
11. On [REDACTED] [REDACTED] 2019, the Department denied the Appellant's application for Husky C effective [REDACTED] 2019 because the Appellant failed to provide the requested motor vehicle documentation and Direct Express documentation necessary to determine eligibility under the Husky C program. (Exhibit 5: Notice of Action and Department Representative's Testimony)
12. On [REDACTED] 2019, the Department issued the Appellant a Notice of Action. The notice stated the Department denied the Appellant's application for Husky C benefits effective [REDACTED] 2019 for the following reasons: you did not return all of the required proofs by the date we asked and does not meet program requirements. (Exhibit 5: Notice of Action)
13. 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.

CONCLUSIONS OF LAW

1. Section 17b-2(6) of the Connecticut General Statutes ("Conn. Gen. Stat.") 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 of Social Services shall be the sole agency to determine eligibility for assistance and services under programs operated and administered by the Department." Conn. Gen. Stat. § 17b-261b(a)
3. "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))

4. “The application process is all activity related to the exploration, investigation and disposition of an application beginning with the filing of an assistance request and ending with disposition of the application.” Uniform Policy Manual (“UPM”) § 1500.01

“The application process outlines the general methods and requirements used in obtaining assistance and in determining an assistance unit’s initial eligibility. The application process is essentially the same for all programs. It is designed to provide aid in a prompt and efficient manner those who request assistance.” UPM § 1505

5. “The assistance unit, by the act of applying for or receiving benefits, assumes certain responsibilities in its relationship with the Department. This chapter describes those responsibilities which an assistance unit assumes when it applies for or receives benefits from the Department.” UPM § 1010
6. “The Department compares the assistance unit’s equity in counted assets with the program asset limit when determining whether the unit is eligible for benefits.” UPM § 4005.05(D)(10)
7. “Verification is the act of confirming a fact, circumstance or condition through direct evidence or other reliable documentation or collateral contact.” UPM 1500.01
8. Department policy provides as follows:

The Department requires verification of information:

- a. When specifically required by federal or State law or regulations; and
- b. When the Department considers it necessary to corroborate an assistance unit’s statements pertaining to an essential factor of eligibility.

UPM § 1540.05(C)(1)

9. “The assistance unit must verify its equity in counted assets.” UPM §4099.05(A)(1)

The assistance unit must verify the following for the Department to evaluate each asset held by the assistance unit. This list is not necessarily all-inclusive.

1. The asset’s legal owner, if there is a question of ownership, as described in 4010; and
2. The asset’s status as either inaccessible or excluded, if there is a question, as described in 4015 and 4020, respectively ; and

3. The amount of equity the assistance unit has in the asset; and
4. The amount of equity in counted assets to be deemed available to the unit, as described in 4025.

UPM § 4099.30(A)

“The assistance unit must verify its equity in counted assets.” UPM § 4099.05(A)(1)

“A counted asset is an asset which is not excluded and either available or deemed available to the assistance unit.” UPM § 4000.01

“An available asset is cash or any item of value which is actually available to the individual or which the individual has the legal right, authority or power to obtain, or to have applied for, his or her general or medical support.” UPM § 4000.01

10. “The assistance unit must verify that it is not the legal owner of an asset if the unit claims to be merely the record owner of the asset.” UPM § 4099.10(A)(1)

If the unit is unable to verify that it is merely the record owner, and not the legal owner of an asset, the Department counts the asset as owned by the assistance unit.” UPM § 4099.10(A)(2)

“The legal owner of an asset is the person who is legally entitled to enjoy the benefit and use of the asset.” UPM § 4000.01

“The record owner of an asset is the person who has apparent ownership interest as shown on a title, registration, or other documentation.” UPM § 4000.01

11. “The Department must inform the assistance unit regarding the eligibility requirements of the programs administered by the Department, and regarding the unit’s rights and responsibilities.” UPM § 1015.10(A)

“The Department must tell the assistance unit what the unit has to do to establish eligibility when the Department does not have sufficient information to make an eligibility determination.” UPM § 1015.05(C)

12. The Department correctly issued the Appellant a W1348 Proofs We Need from requesting asset information needed to determine eligibility under the Husky C program.

13. “The assistance unit must supply the Department, in an accurate and timely manner as defined by the Department, all pertinent information and

verification which the Department requires to determine eligibility and calculate the amount of benefits (cross reference: 1555).” UPM § 1010.05(A)(1)

“The assistance unit must satisfy certain procedural requirements as described in Section 3500, including: taking steps as required by the Department to complete the eligibility determination.” UPM § 1010.05(C)(6)(a)

“As a condition of eligibility, members of the assistance unit are required to cooperate in the initial application process and in reviews, including those generated by reported changes, redeterminations and Quality Control. (Cross reference: Eligibility Process 1500).” UPM § 3525.05

“Applicants are responsible for cooperating with the Department in completing the application process by:

- a. Fully completing and signing the application form; and
- b. Responding to a scheduled appointment for an interview; and
- c. Providing and verifying information as required.” UPM § 3525.05(A)(1)

14. The Department correctly determined the Appellant failed to provide the requested documentation needed to determine eligibility under the Husky C program.

15. “The penalty for failure to provide required verification depends upon the nature of the factor or circumstance for which verification is required.” UPM § 1540.05(D)

“If the eligibility of the assistance unit depends directly upon a factor or circumstance for which verification is required, failure to provide verification results in ineligibility for the assistance unit. Factor on which unit eligibility depends directly include, but are not limited to: asset amounts.” UPM § 1540.05(D)(1)(b)

“If the unit does not verify its equity in counted assets, the unit is ineligible for assistance.” UPM § 4099.05(A)(2)

16. “The applicant’s failure to provide required verification by the processing date causes: One or more members of the assistance unit to be ineligible if the unverified circumstance is a condition of eligibility.” UPM § 1505.40(B)(1)(c)(1)

17. The Department correctly denied the Appellant’s application for Husky C effective [REDACTED] 2019 for the reason you did not return all of the required proofs by the date we asked.

DISCUSSION

The Appellant testified she registered the 2008 Buick and 2002 Dodge at the Department of Motor Vehicles on behalf of her daughter because her daughter owed taxes on the vehicles which she could not afford to pay. The Department provided evidence from the Department of Motor Vehicles indicating the Appellant as the owner of the vehicles. It is an applicant's responsibility to verify the factors of eligibility necessary for the Department to make an accurate determination of eligibility. Such factors include an asset's legal owner, the status of an asset and the equity held in the asset. The Appellant failed to verify such factors. The Department's action to deny the Appellant's application for Husky is upheld.

DECISION

The Appellant's appeal is DENIED.



Lisa A. Nyren
Fair Hearing Officer

CC: Rachel Anderson, RO #20
Cheryl Stuart, RO #20
Lisa Wells, RO #20
Debra James, 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.