

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: 157188

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████, 2020, the Department of Social Services (the "Department") issued a *Notice of Action* to ██████████ (the "Appellant") terminating his HUSKY-C Medicaid for the Aged, Blind, and Disabled ("HUSKY-C") coverage effective ██████████, 2020.

On ██████████ 2020, the Appellant filed a request for an administrative hearing with the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH").

On ██████████ 2020, the OLCRAH scheduled 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, the OLCRAH held an administrative hearing. The following individuals participated by telephone conferencing:

██████████, Appellant
Garfield White, Department's representative
Eva Tar, Hearing Officer

On ██████████, 2020, the hearing record closed.

STATEMENT OF ISSUE

The issue is whether the Department correctly determined that Appellant was ineligible for HUSKY-C coverage.

FINDINGS OF FACT

1. The Appellant is a HUSKY-C program participant. (Department Exhibit 4)(Department's representative testimony)
2. In 2008, the Appellant's friend added the Appellant's name to the friend's [REDACTED] account [REDACTED] (the "account"). (Appellant testimony)
3. Since 2008, the Appellant had been depositing his wages and later his Social Security benefits to the account. (Appellant testimony)
4. On [REDACTED], 2020, the Appellant's name remained on the account. (Hearing request)
5. On [REDACTED] 2020, the account had a balance of \$6,879.95. (Hearing request)
6. On [REDACTED] 2020, the Department received a match from the national Asset Verification Services ("AVS") database identifying the Appellant as a co-owner of the account with that account having a balance of \$6,648.07. (Department Exhibit 3)
7. On [REDACTED], 2020, the Department issued a *Notice of Action* terminating the Appellant's HUSKY-C coverage effective [REDACTED] 2020. (Department Exhibit 4)
8. As of [REDACTED], 2020, the AVS database continued to list the Appellant as co-owner of the account. (Department Exhibit 3)
9. As of [REDACTED] 2020, the Appellant had not submitted verification of the removal of his name from the account to the Department. (Appellant testimony)
10. As of [REDACTED], 2020, the Appellant had not established that the value of his assets fall within the HUSKY-C program's \$1,600.00 asset limit. (Hearing record)
11. Due to the COVID-19 pandemic, the Department has delayed the termination of the Appellant's HUSKY-C coverage until [REDACTED] 2020. (Department representative testimony)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes in part designates the Department as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Uniform Policy Manual ("UPM") § 4000.01 provides the following definitions:
 - Asset Limit: The asset limit is the maximum amount of equity in counted assets which an assistance unit may have and still be eligible for a particular program administered by the Department.
 - Legal Owner: The legal owner of an asset is the person who is legally entitled to enjoy the benefit and use of the asset.
 - Record Owner: 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.

3. "If the assistance unit is the record owner of an asset, the unit is considered the legal owner unless it establishes otherwise, with clear and convincing evidence." UPM § 4010.05 A.1.

"If it is established to the Department's satisfaction that the legal owner and the record owner of an asset are two different persons, the Department considers the asset the property of the legal owner." UPM § 4010.05 A.2.

Section 4010.10 A. 3 of the Uniform Policy Manual provides:

An individual other than the spouse of an assistance unit member is considered merely the record owner of an account or similar asset held jointly with the unit member.

- a. This is true regardless of the time period the individual has been joint holder of the asset.
- b. The assistance unit may rebut the Department's finding by providing clear and convincing evidence that the individual is legal owner of the asset.

UPM § 4010.10 A.3.

The Appellant's twelve years of routine usage of the account to clear his paychecks and deposit his Social Security benefits supports the Department's claim that the Appellant is one of the legal owners of the account.

The Appellant has not established by clear and convincing evidence that he is not one of the legal owners of the account.

For the purposes of the HUSKY-C program, the Appellant is one of the legal owners of the account.

4. "Subject to the limitations described below, personal property such as a bank account held jointly by the assistance unit and by another person is counted in full toward the asset limit." UPM § 4010.10 A.1.

It is reasonable to conclude that the account is a joint account, as it is held jointly by the Appellant and his friend.

5. The asset limit for the HUSKY-C program is \$1,600.00 for an individual. UPM § 4005.10 A.2.a.

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.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.

The value of the Appellant's counted assets in the account exceeded \$1,600.00.

The Department correctly terminated the Appellant's HUSKY C Medicaid for the Aged, Blind, and Disabled coverage, as his counted assets in a joint account exceeded the program's \$1,600.00 asset limit for an individual.

DISCUSSION

The Appellant asserts that he was never the owner of the account, but acknowledges that since 2008, his wages and later his Social Security benefits were deposited in this account. The Appellant has not provided clear and convincing evidence to support his assertion.

As the value of this joint account significantly exceeds \$1,600.00, the HUSKY-C program's asset limit for an individual, the Department acted correctly when it terminated the Appellant's HUSKY-C coverage effective [REDACTED] 2020.

However, due to the COVID-19 pandemic, the Department has postponed the termination of the Appellant's HUSKY-C coverage until [REDACTED] 2020. If the Appellant wishes to continue to receive HUSKY-C coverage past that date, he will need to verify to the Department's satisfaction that the value of his assets do not exceed the HUSKY-C program's \$1,600.00 asset limit for an individual.

DECISION

The Appellant's appeal is DENIED.

Eva Tar-electronic signature
Eva Tar
Hearing Officer

cc: Garfield White, DSS-Hartford
Jay Bartolomei, DSS-Hartford
Musa Mohamud, DSS-Hartford
Judy Williams, DSS-Hartford
Jessica Carroll, DSS-Hartford

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, 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.