

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

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

Client ID ██████████  
Request # 157674

**NOTICE OF DECISION**

**PARTY**

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

**PROCEDURAL BACKGROUND**

On ██████████ 2020, the Department of Social Services (the “Department”) issued a Notice of Action (“NOA”) to ██████████ (the “Appellant”) denying her application for HUSKY C Medicaid benefits because she did not return all of the required proofs by the date the Department asked, and did not meet program requirements.

On ██████████ 2020, the Appellant requested an administrative hearing to appeal the denial of her HUSKY C application.

On ██████████ 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2020. Due to the COVID-19 pandemic, the hearing was scheduled to be held telephonically.

On ██████████ 2020, 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. The following individuals were present at the hearing:

██████████ Appellant  
██████████ Appellant’s daughter  
Claudia Ale, Interpreter, Interpreters & Translators, Inc.  
██████████ Patient Advocate, ██████████ Hospital  
Garfield White, Department’s representative  
James Hinckley, Hearing Officer

None of the parties objected to the hearing being conducted telephonically.

The hearing that convened on [REDACTED] 2020 could not be concluded in the allotted time, and on [REDACTED] 2020, OLCRAH issued a notice scheduling the hearing to reconvene on [REDACTED] 2020. On [REDACTED] 2020, the same individuals appeared at the reconvened hearing, with the exception that Taneisha Hayes replaced Garfield White as the Department's representative.

**Por favor vea la copia incluida de esta decisión en español**

### **STATEMENT OF THE ISSUE**

The issue is whether the Department was correct when it denied the Appellant's application for HUSKY C Medicaid benefits.

### **FINDINGS OF FACT**

1. The Appellant is a 74 year old woman. (Ex. 2: Application form)
2. On [REDACTED] 2020, the Appellant and her husband applied for HUSKY C. Because the Appellant was married, her and her husband's applications were dependent on each other, and so they had to be linked and processed together. (Ex. 2, Testimony)
3. On [REDACTED] 2020, the Appellant's husband died. Following his death, the Department continued to process the Appellant's application for herself only. (Hearing Record)
4. The Appellant is originally from [REDACTED]. She entered the U.S. as a Lawful Permanent Resident ("LPR") in [REDACTED] 2000. (Testimony)
5. As a condition of her entry into the U.S. as an LPR, the Appellant was sponsored by one of her daughters, [REDACTED] (her "Sponsor"), who executed an Affidavit of Support. (Testimony, Hearing Record)
6. The Appellant does not live with her Sponsor. The Sponsor lives in Connecticut at a different address from the Appellant. (Testimony)
7. On [REDACTED] 2020, the Department requested certain information and verification from the Appellant. The information included proof of her Sponsor's name, address, income, assets and number of tax dependents. The due date to provide the information was [REDACTED] 2020. (Ex. 3-A: W-1348 *Proofs We Need* form)
8. The Department's [REDACTED] 2020 request included a form for the Appellant to complete to provide her Sponsor's information. (Ex. 3-B: W-727 *Sponsor(s) of Non-Citizens Information Sheet*)

9. The Appellant never returned the completed form answering the Department's questions about her Sponsor. She never provided the Department with the information in any other manner, such as verbally or in some other written communication. (Testimony, Hearing Record)
10. The Appellant remains in LPR status. She has not acquired naturalized citizenship. (Testimony)
11. During her time living in the U.S. as an LPR, the Appellant worked for a total of about two years. (Testimony)
12. During his time living in the U.S. as an LPR, the Appellant's husband worked for a total of about three to four years before he became ill and could no longer work. (Testimony)
13. On [REDACTED] 2020, the Department issued a NOA to the Appellant denying her application for HUSKY C because she did not return all of the required proofs by the date the Department asked, and because she did not meet program requirements. (Ex. 5: NOA dated [REDACTED] 2020)

### **CONCLUSIONS OF LAW**

1. The Department is the state agency that administers the Medicaid program pursuant to Title XIX of the Social Security Act. The Department may make such regulations as are necessary to administer the medical assistance program. Conn. Gen. Stat. § 17b-2; Conn. Gen. Stat. § 17b-262
2. 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, 177 (1994) (citing Conn. Gen. Stat. 17-3f(c) [now 17b-10]; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A. 2d 712(1990)).
3. UPM § 5020.60(A)(1) provides as follows:

#### Circumstances Under Which Income is Deemed

The Department deems the income of a non-citizen's sponsor and the sponsor's spouse, if the spouse signed the Revised Affidavit of Support (I-864) or the Contract Between Sponsor and Household Member (I-864A) to the non-citizen under the following circumstances:

- a. the sponsor and the sponsor's spouse are not members of the same assistance unit as the non-citizen; and
- b. the non-citizen must have a sponsor under USCIS rules; and

- c. the sponsor and the sponsor's spouse have executed an Affidavit of Support (I-864) or the Contract Between Sponsor and Household Member (I-864A) pursuant to 8 U.S.C. § 1183a(a) (section of the Personal Responsibility and Work Opportunity Act of 1996, amending Title II of the Immigration and Nationality Act by adding section 213(a) on behalf of the non-citizen; and
- d. the sponsor is an individual rather than an institution; and
- e. none of the exceptions set forth in Paragraph C of this section are applicable..

- 4. **The circumstances in UPM § 5020.60(A)(1) (a) to (d) are all true for the Appellant: she was required to have a sponsor in order to be admitted to the U.S. as an LPR; her Sponsor was required to execute an Affidavit of Support; the Sponsor is an individual; the Appellant and her Sponsor are not members of the same household or assistance unit.**
- 5. UPM § 5020.60(C) provides for exceptions to deeming under certain circumstances such as indigence, battery or extreme cruelty, good cause, or when the non-citizen is under 18 years of age. If a non-citizen meets the criteria to be considered indigent, he or she must "indicate, in writing, whether he or she wants the Department to apply the indigence exception to the non-citizen's application for benefits." "If the non-citizen wants the Department to apply the indigence exception....The Department shall notify the United States Attorney General of the name and address of the non-citizen and the name and address of the sponsor." Good Cause exists when the non-citizen is "unable to provide accurate and complete information to the Department concerning the sponsor's income."
- 6. **The Appellant did not meet any of the exceptions to deeming in Paragraph C of UPM § 5020.60. The Appellant did not claim indigence. In order to do so, she would have had to have provided her Sponsor's name and address, which needed to be reported to the U.S. Attorney General. The Appellant did not claim battery or extreme cruelty. The Appellant did not have Good Cause because her failure to report her Sponsor's name, address and employment information to the Department had nothing to do with her inability to obtain the information.**
- 7. UPM § 5020.60(A)(3) provides as follows:

The Department deems income in accordance with Paragraph A.1 until one of the following events occurs:

- a. the non-citizen becomes a citizen of the United States; or

- b. the non-citizen works 40 qualifying quarters, as defined under Title II of the Social Security Act; or
  - c. the non-citizen is credited for having worked 40 qualifying quarters if, beginning January 1, 1997, the qualifying quarters were worked when the non-citizen did not receive any federal means-tested public benefits, and either
    - (1) the qualifying quarters were worked by a parent of such non-citizen while the citizen was under 18 years of age; or
    - (2) the qualifying quarters were worked by a spouse of such non-citizen during the couple's marriage and the non-citizen remains married to such spouse or such spouse is deceased; or
    - (3) the non-citizen or the sponsor dies.
8. **None of the events listed in UPM § 5020.60(A)(3) has occurred which would terminate the requirement to deem the Appellant's Sponsor's income to her. The Appellant has not become a U.S. citizen. The Appellant cannot be credited with 40 qualifying quarters; she and her spouse did not work for enough years in the U.S. to accumulate 40 work quarters.**
9. **The Department is required to deem the Appellant's Sponsor's income to her.**
10. "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)
11. "The Department must tell the assistance unit what the unit has to do to establish eligibility when the Department does not sufficient information to make an eligibility determination." UPM § 1015.05(C)
12. The maximum time period for processing an application, known as the promptness standard, is 45 calendar days for an MA application. UPM § 1505.35(C)(1)
13. "Prior to making an eligibility determination the Department conducts a thorough investigation of the circumstances relating to eligibility and the amount of benefits." UPM § 1505.40(A)(1)
14. "The following provisions apply if the applicant failed to complete the application without good cause:...b. If assistance cannot be granted: (1) AFDC, AABD and MA cases are denied between the thirtieth day and the last day of the appropriate promptness standard for processing the application;" UPM § 1505.40(B)(1)

15. The Department properly informed the Appellant what information was needed to process her case, and informed her of the date the information needed to be provided by.
16. ██████████ 2020 was the thirtieth day of the promptness standard for processing the Appellant's application; the Appellant filed her application on ██████████ 2020.
17. As of ██████████ 2020, the Appellant had not provided the Department with the information and verification it needed to make an eligibility determination on her case. She did not supply the Department with her Sponsor's information. She did not have good cause for not providing the information.
18. The Department was correct when it denied the Appellant's application for HUSKY C Medicaid on ██████████ 2020. The Department did not have sufficient information to grant the Appellant's case as of that date. Since the thirtieth day from the date of filing the application had been reached, it was appropriate to deny the application on that date.


#### **DISCUSSION**

Though the Appellant acknowledged that she did not provide the Department with the requested information, she indicated her willingness to do so now. She also indicated that she plans on reapplying.

If the Appellant reapplies, she can potentially qualify for up to three months of retroactive medical coverage. She must inform the Department on the new application if she is seeking retroactive coverage.

#### **DECISION**

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

  
James Hinckley  
Hearing Officer

cc: Musa Mohamud  
Judy Williams  
Jessica Carroll  
Jay Bartolomei  
Garfield White  
Taneisha Hayes

### **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.