

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

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

██████████
██████████
Request # 158257

NOTICE OF DECISION
PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

██████████, 2020, the Department of Social Services (the “Department”) sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) discontinuing ██████████ (the “Appellant’s spouse”) HUSKY C-Medically Needy Aged, Blind or Disabled (“MAABD”) under a Spenddown medical program effective ██████████ 2020.

██████████, 2020, the Appellant requested an administrative hearing to contest the Department’s decision to discontinue such benefits.

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

██████████, 2020, the Appellant requested ██████████.

██████████, 2020, OLCRAH issued a notice to the Appellant rescheduling the administrative hearing for ██████████, 2020.

██████████ 2020, the Appellant requested a reschedule.

██████████, 2020, OLCRAH issued a notice to the Appellant rescheduling the administrative hearing for ██████████ 2020.

██████████, 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. Due to COVID-19 concerns, the hearing was held telephonically. No party objected to the hearing being held in that manner. The following individuals were present at the hearing:

██████████, Appellant
 ██████████, Appellant's Spouse
 Marybeth Mark, Department Representative
 Veronica King, Hearing Officer

The hearing record remained open for the submission of additional documents. On ██████████ 2020, the hearing record closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to discontinue the Appellant's spouse's Husky C spenddown medical program.

FINDINGS OF FACT

1. The Appellant's spouse Appellant has been a recipient of the Medicaid MAABD program under a spenddown. (Hearing Record)
2. ██████████ 2020, the Appellant submitted a Period Report Form ("PRF") to the Department. The PRF is used to determine a household eligibility for the Supplemental Nutrition Assistance Program. (Exhibit 1: PRF and Hearing Record)
3. █ █ █, 2020, the Department reviewed the Appellant's PRF. The Department verified through interface Unemployment Compensation Benefits ("UCB") that on ██████████, 2020, the Appellant started receiving UCB benefits. (Exhibit 2: UCB details, Exhibit 6: Case Notes details and Hearing Record)
4. The Department did not send any request for proofs or information to the Appellant or the Appellant's spouse. (Department's Representative's Testimony)
5. █ █ █ 2020, the Department issued an NOA to the Appellant discontinuing the Appellant's spouse's MAABD under spenddown medical program effective ██████████ 2020. The notice stated the Appellant and the Appellant's spouse did not return all the required proofs by the date asked. (Exhibit 4: NOA, █/20)

6. ■■■■■, 2020, the Appellant requested a hearing to contest the Department's action. (Hearing Record)
7. It is unclear why on ■■■■■ 2020, the Department discontinued the Appellant's spouse's MAABD under spenddown medical program. (Department's Representative's Testimony)
8. 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 ■■■■■ 2020. However, the hearing held on ■■■■■ ■■■ 2020, was initially scheduled for ■■■■■, 2020, and rescheduled, at the request of the Appellant. The record was closed on ■■■■■ 2020, with agreement of both parties. Because this 61-day delay resulted from the Appellant's request, this decision is not due until ■■■■■, 2020, and therefore timely. (Hearing Record)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes ("Conn. Gen. Stats."), 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'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, 178 (1994) (citing Conn. Gen. Stat. § 17b-10; *Richard v. Commissioner of Income Maintenance*, 2017 Conn. 601, 573 A.2d 712 (1990)).
3. UPM § 1015.10(A) provides that 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.
4. UPM § 1015.05(C) provides that 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.
5. UPM § 1505.40(A)(1) provides that prior to making an eligibility determination the Department conducts a thorough investigation of all circumstances relating to eligibility and the amount of benefits.

The Department failed to inform the Appellant and the Appellant's spouse what she had to do to establish eligibility for his MAABD under spenddown medical program.

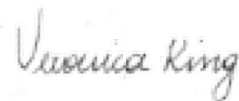
■ ■ ■ 2020, the Department incorrectly discontinued the Appellant's spouse's MAABD under spenddown medical program.

DECISION

The Appellant's Appeal is **GRANTED**.

ORDER

1. The Department will reopen the Appellant's spouse' MAABD spenddown medical program, effective ■■■ 2020, and will consider eligibility using all other applicable regulations.
2. Compliance with this order is due back to the undersigned by ■■■ 2020.



Veronica King
Fair Hearing Officer

CC: Cheryl Stuart, Lisa Wells, DSS Operations Manager, RO#40 Norwich.
Marybeth Mark, Fair Hearing Liaison RO#40 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 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.