

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: 162899

NOTICE OF DECISION

PARTY

██████████
██████████

PROCEDURAL BACKGROUND

On ██████████, 2020, the Department of Social Services (the "Department") issued ██████████ (the "Appellant") a *Notice of Action* terminating her HUSKY-C/Medically Needy Aged, Blind, Disabled-Spend-down ("HUSKY-C/Medicaid") effective ██████████, 2020.

On ██████████, 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") received the Appellant's ██████████, 2020 postmarked request for an administrative hearing.

On ██████████, 2020, the OLCRAH scheduled an 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
Kristin Haggan, Department's Representative
Eva Tar, Hearing Officer

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

STATEMENT OF ISSUE

The issue is whether the Department correctly closed the Appellant's HUSKY-C/Medicaid case effective ██████████, 2020.

FINDINGS OF FACT

1. On [REDACTED], 2019, the Department granted the Appellant's [REDACTED] 2019 application for medical coverage under the HUSKY-C/Medicaid coverage group, contingent to her meeting a \$801.72 spend-down in the period from [REDACTED] 2019 through [REDACTED] 2020. (Dept. Exhibits 1 and 5)
2. A spend-down is like an insurance deductible; the medical coverage remains inactive until the individual subject to the spend-down procedure submits to the Department medical bills equal to or in excess of the calculated spend-down. (Department's Representative Testimony)
3. On [REDACTED] 2020, the Department regranted the Appellant's medical coverage under the HUSKY-C/Medicaid coverage group, contingent to her meeting a \$753.72 spend-down in the period from [REDACTED] 2020 through [REDACTED] 2020. (Dept. Exhibit 5)
4. The Department's [REDACTED] 2020 correspondence to the Appellant of her spend-down amount to be met for the period from [REDACTED] 2020 through [REDACTED] 2020 included an explanation of the spend-down process, how to submit medical bills to the Department for review, and a telephone number to call. (Dept. Exhibit 5)
5. The Appellant's testimony that she had never been informed of the spend-down process or asked to submit medical bills toward her spend-down to make her medical coverage active is not credible; her testimony is not supported by the hearing record.
6. From [REDACTED] 2019 through [REDACTED] 2020, the Appellant did not submit medical bills to the Department for her spend-down. (Appellant Testimony) (Department's Representative Testimony)
7. The Department automatically closes HUSKY-C/Medicaid cases that remain in inactive status in two consecutive, six-month spend-down periods. (Department's Representative Testimony)
8. Connecticut General Statutes § 17b-61 (a), as amended on passage by Section 309 of *Public Act No. 19-117 (January Session)*, provides the deadline for the rendering of a hearing decision.

Executive Order 7M, Section 3, dated [REDACTED] 2020, extends the period for rendering a hearing decision. Executive Order 7DDD, Section 2, dated [REDACTED] 2020 in part authorizes a further extension to the time frames provided by Executive Order 7M, Section 3, dated [REDACTED] 2020 that would have lapsed on [REDACTED] 2020.

ORDER, (Commissioner Deidre S. Gifford, [REDACTED] 2020) provides in part: "Section 17b-61(a)'s timeframe for the commissioner or commissioner's designated hearing officer to render a final decision is extended from 90 to 'not later than 120 days' after the date the commissioner receives a request for a fair hearing pursuant to Section 17b-60...."

On [REDACTED] 2020, the OLCRAH received the Appellant's [REDACTED], 2020 postmarked hearing request. This hearing decision would have become due with the extended deadlines on [REDACTED] 2021. This final decision is timely.

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes provides in part that the Department of Social Services is the designated state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.

"The Commissioner of Social Services may make such regulations as are necessary to administer the medical assistance program...." Conn. Gen. Stat. § 17b-262.

"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 \(1990\)](#)).

The Department has the authority to make regulations, rules, and procedures to support its administration of the HUSKY-C/Medicaid program.

2. "When the amount of the assistance unit's monthly income exceeds the [Medically Needy Income Limit], income eligibility for a medically needy assistance unit does not occur until the amount of excess income is offset by medical expenses. This process of offsetting is referred to as a spend-down." UPM § 5520.25 B.

"Income eligibility for the assistance unit exists as of the day when excess income is totally offset by medical expenses: a. Any portion of medical expenses used to offset the excess income are the responsibility of the unit to pay. b. Medical expenses which are recognized as payable under the State's plan and which are remained unpaid at the time eligibility begins are paid by the Department provided the expenses were not used to offset income." UPM § 5520.25 B.7.

"When the excess income is offset by medical expenses before the expiration of the prospective period, the assistance unit is eligible for the remaining balance of the six months." UPM § 5520.30 B.2.

"When the amount of incurred expenses is insufficient to offset the excess income, no eligibility exists for that six-month period." UPM § 5520.30 B.3.

The Appellant did not activate her HUSKY-C/Medicaid coverage from [REDACTED] 2019 through [REDACTED] 2020, as she failed to meet her spend-down by submitting \$801.72 in medical expenses to the Department in that period.

The Appellant did not activate her HUSKY-C/Medicaid coverage from [REDACTED] 2020 through [REDACTED] 2020, as she failed to meet her spend-down by submitting \$753.72 in medical expenses to the Department in that period.

3. <*Field Operations Communication*, issued by Elizabeth Thomas, [REDACTED] 2020> reminds Department staff in part that “[i]nactive Spend-downs will not be automatically extended past the renewal end date. If individuals have not met a Spend-down during their last 12-month period (two 6-month cycles) the EDGs [Eligibility Determination Group] will close as normal. All other inactive Spend-down recipients not meeting the above criteria will be sent a renewal form.”

The Department did not exceed its authority when it issued rules via a *Field Operations Communication* on [REDACTED] 2020 instructing its staff to discontinue HUSKY-C/Medicaid cases that remained in inactive status for a 12-month period.

The Department acted correctly when it closed the Appellant’s HUSKY-C/Medicaid case effective [REDACTED] 2020, as the Appellant did not meet a spend-down in her last 12-month period from [REDACTED] 2019 through [REDACTED] 2020.

DECISION

The Appellant’s appeal is DENIED.

Eva Tar-electronic signature
Eva Tar
Hearing Officer

cc: Kristin Haggan, DSS-Norwich
Cheryl Stuart, DSS-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 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, 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 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.