

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

██████████ 2021  
Signature Confirmation

Case ID # ██████████  
Client ID # ██████████  
Request # ██████████

**NOTICE OF DECISION**

**PARTY**

██████████  
██████████  
██████████

**PROCEDURAL BACKGROUND**

On ██████████, 2020, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA) discontinuing Husky C, Aged, Blind, Disabled not eligible for State Supplement, ("AABD") benefits under the Medicaid program, effective ██████████ 2020 and granting a Husky C spend-down Medicaid.

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

On ██████████ ██████████ 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice scheduling the administrative hearing for ██████████, 2021.

On ██████████ 2021, 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 son, sponsor, and Authorized Representative.  
Jacqueline Taft, Department Representative  
Almelinda McLeod, Hearing Officer

The hearing record was held open for the submission of additional evidence. On [REDACTED], 2020 the hearing record was closed.

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether the Department's decision to discontinue the AABD Medicaid was correct.

### **FINDINGS OF FACT**

1. On [REDACTED], 2020, the Appellant applied for Husky C AABD Medicaid. (Exhibit 1- Application)
2. The Appellant reported zero income, zero expenses and zero assets. (Exhibit 5, Case notes)
3. The Department conducted an interactive search and found no history of income under the Social Security Administration, Department of Labor, Unemployment Compensation. The Department found under the SAVE system, the Appellant and her spouses entry date into the United States was [REDACTED] 2014 and both were both sponsored by their son, [REDACTED]. (Exhibit 5, Case notes)
4. On [REDACTED] 2020, the Department issued a W-1348 Proofs We Need form requesting proof of residency and sponsor information W-724 & W-727. This information was due on [REDACTED] 2020. (Exhibit 2, W-1348)
5. On [REDACTED] 2020, the Department received the Appellant's LLL, w-724 and w-727. (Hearing record)
6. On [REDACTED] 2020, the Department informed the Appellant's sponsor that his 4 weekly paystubs were needed. (Exhibit 5, Case notes)
7. On [REDACTED] [REDACTED] 2020, the Department received the sponsors paystubs. (Hearing record)
8. On [REDACTED] 2020, the Department issued a manual W-1348 requesting the sponsor's spouse's paystubs. The due date for this information was due on [REDACTED] 2020. (Exhibit 5, Case notes)

9. On [REDACTED] 2020, the Department did not receive the requested verification. (Exhibit 5, Case notes)
10. On [REDACTED] 2020, the Department issued a NOA informing the Appellant that her application for Husky C, AABD under au# [REDACTED] was denied because she received benefits as part of another case. (Exhibit 3, NOA)
11. The Appellant was granted G06, Medicaid for COVID-19 testing. (Hearing summary & Department testimony)
12. On [REDACTED] 2020, the Department issued a NOA informing the Appellant that her application for AABD Medicaid was granted for [REDACTED] 2020 through to [REDACTED] 2020 under au # [REDACTED] and denied effective [REDACTED] 20 under au # [REDACTED] because the income is too high. As a result, the Appellant has a medical spend-down of \$37, 666.21 effective [REDACTED] 20. (Exhibit 4A&4B, NOA)
13. The sponsor of the Appellant does not agree with the sponsorship requirement for the Medicaid Husky coverage as he has his own family and has his own expenses. He cannot afford his mother's spend-down of \$37,666.21. He cannot afford his parents medical insurance. (Sponsor testimony)
14. The issuance of this decision under Connecticut General Statutes 17b-61 (a) which requires that a decision be issued within 90 days of the request for an administrative hearing has been extended to "not later than 120 days " after a request for a fair hearing pursuant to Section 17b-60 by order of Department of Social Services Commissioner dated [REDACTED] 2020. The Appellant requested an administrative hearing on [REDACTED], 2020; therefore this decision is due on [REDACTED] 2021; however with the additional one day extension for the submission of additional evidence, this final decision is due no later than [REDACTED], 2021 and it is therefore, timely.

### **CONCLUSIONS OF LAW**

1. Section 17b-260 of the Connecticut General Statutes provides 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 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)).

3. UPM § 3099.03 B. 1. pertains to Non-citizens and provides Non-citizens are required to submit sufficient documentation to the Department to establish eligible non-citizen status.
4. UPM § 3005.05 B. 1. pertains to Eligible Non-Citizens and provides an eligible non-citizen is one who is lawfully admitted to the United States for permanent residence as an immigrant.
5. UPM § 3005.08 (B). (10) (1) (a) pertains to Eligible Non-citizens -- Arriving in U.S. on or after 8/22/96 and provides an eligible non-citizen is one who arrives in the U.S. on or after August 22, 1996 and has lawfully resided in the U.S. for at least five years and is lawfully admitted to the U.S. for permanent residence under the Immigration and Nationality Act.
6. UPM § 5020 provides in part, in addition to income which is received by the assistance unit, the Department also considers some income which is received by persons who are not part of the unit.
7. Section 421 of the Personal Responsibility and Work Opportunity Act of 1996 (PRWORA) [Public Law 104-193] provides as follows:

SEC. 421 FEDERAL ATTRIBUTION OF SPONSOR'S INCOME AND RESOURCES TO ALIEN.

a. IN GENERAL.—Notwithstanding any other provision of law, in determining the eligibility and the amount of benefits of an alien for any Federal means-tested public benefits program (as provided under section 403), the income and resources of the alien shall be deemed to include the following:

(1) The income and resources of any person who executed an affidavit of support pursuant to section 213A of the Immigration and Nationality Act (as added by section 423) on behalf of such alien.

(2) The income and resources of the spouse (if any) of the person.

b. DURATION OF ATTRIBUTION PERIOD. —Subsection (a) shall apply with respect to an alien until such time as the alien—

(1) achieves United States citizenship through naturalization pursuant to chapter 2 of title III of the Immigration and Nationality Act; or

(2) (A) has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act or can be credited with such qualifying quarters as provided under section 435, and (B) in the case of any such qualifying quarter creditable for any period beginning after December 31, 1996, did not receive any Federal means-tested public benefit (as provided under section 403) during any such period.

8. UPM § 5020.60 (A) (1) pertains to Sponsors of Non-Citizens Who Entered the U.S. on or after August 22, 1996 and Executed the Revised Affidavit of Support (I-864) or the Contract Between Sponsor and Household Member (I-864A) and provides the 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.
9. **The Department correctly deemed the sponsor's income for the Appellant's Husky C, AABD application because the Appellant's sponsor meets the conditions described in PRWORA, SEC. 421 and UPM § 5020.60 (A) (1).**
10. UPM § 5020.60(A) (2) provides that the Department deems income in accordance with Paragraph A.1. of this section, whether or not the sponsor lives with the non-citizen.
11. UPM § 5020.60 (3) provides 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 benefit, and either
    - (1) the qualifying quarters were worked by a parent of such non-citizen while the non-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.

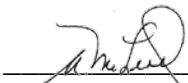
12. **The hearing record shows that neither the Appellant nor her spouse met any conditions listed under UPM 5020.60 (3). Neither the Appellant or her spouse have acquired US Citizenship and neither of them have any work history that would credit either of them with any qualifying quarters; therefore, the Appellant's sponsor and the sponsor's spouse are subject to the deeming requirement.**
13. **The Department is correct to deem the sponsor and the sponsor's spouse's income towards the Appellant's Husky C, AABD benefits under the Medicaid program. The Department is upheld.**

### **DISCUSSION**

The Appellant's hearing request was on the sponsorship requirement and thusly this decision addressed that issue only. The Appellant's and her sponsor may request a hearing on the spend-down amount if they so choose.

### **DECISION**

The Appellant's appeal is DENIED.

  
\_\_\_\_\_  
Almelinda McLeod  
Hearing Officer

CC: Rachel Anderson, SSOM, New Haven  
Cheryl Stuart, SSOM, New Haven  
Lisa Wells, SSOM, New Haven  
Jacqueline Taft, Fair Hearing Liaison, New Haven

### **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.