

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

██████████
██████████
Hearing # 175266

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2021, the Department of Social Services (the “Department”) sent ██████████ ██████████ (the “Appellant”), a notice of action denying her application for Medicaid for the Employed Disabled (“S05”).

On ██████████ 2021, the Appellant requested an administrative hearing to contest the Department’s decision to deny her S05 application.

On ██████████ 2021, 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, 17b-61, and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing. The following individuals participated in the hearing:

██████████, Appellant
Rose Montinat, Department’s Representative
Carla Hardy, Hearing Officer

Due to the COVID-19 Pandemic, this hearing was held as a telephonic hearing.

The hearing record remained open for the Appellant to submit additional evidence which was received. The hearing record closed on ██████████ 2021.

STATEMENT OF THE ISSUE

The issue is whether the Department correctly discontinued the Appellant's S05 benefits.

FINDINGS OF FACT

1. On [REDACTED] 2021, the Department received the Appellant's application for S05 benefits. The Appellant is the only person in her household. She is 68 years old (DOB [REDACTED]/52) and receives Social Security income. (Exhibit 1: Application, [REDACTED]/21; Hearing Summary)
2. The Appellant is disabled. (Hearing Record)
3. On [REDACTED] 2021, the Department reviewed the Appellant's application and determined that additional information was required. They requested proof of her earnings and checking account balance. (Exhibit 2: Proofs We Need, [REDACTED]/21)
4. On [REDACTED] 2021, the Department initiated an AVS bank statement search. (Hearing Summary)
5. AVS is a program that the Department uses to verify an applicant's bank account information. (Department's Testimony)
6. On [REDACTED], 2021, the Appellant submitted her [REDACTED] statement and proof of her employment with [REDACTED] (Exhibit 3: Letter from Employer; Hearing Summary)
7. On [REDACTED] 2021, received the AVS results which shows that the Appellant's name is associated with 10 separate accounts. The combined assets on the accounts totaled \$20,333.59. (Exhibit 10: AVS Results)
8. On [REDACTED], 2021, the Department requested the Appellant's last three bank statements from [REDACTED]. (Exhibit 4: Worker Generated Request for Proofs, [REDACTED] 21)
9. There was no evidence provided indicating that the Department requested verification of ownership of the ten bank accounts listed on the AVS search. (Hearing Record)
10. The Appellant is not the owner of all 10 bank accounts listed on the AVS document. (Appellant's Testimony)
11. The Appellant's name is on two separate [REDACTED] accounts as a joint owner. These accounts belong to minors who are not allowed to be the sole owner of the account. (Appellant's After Hearing Exhibit B: Letter from [REDACTED] 5/11/21)

12. The [REDACTED] and [REDACTED] [REDACTED] are the Appellant's 15 year old niece and nephew. She does not own the accounts in their names. (Appellant's Testimony)
13. On [REDACTED] 2021, the Department issued a notice to the Appellant denying benefits under the HUSKY C – Working Disabled program because she did not return the required verifications that they requested. (Exhibit 6: NOA, [REDACTED]/21)
14. 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 [REDACTED] [REDACTED] 2021. Therefore, this decision is due not later than [REDACTED] 2021.

CONCLUSIONS OF LAW

1. Connecticut General Statutes ("Conn. Gen. Stats.") § 17b-2 provides that the Department of Social Services is designated as the state agency for the administration of (6) the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Conn. Gen. Stats. § 17b-597(a) authorizes the Department of Social Services to establish and implement a working persons with disabilities program to provide medical assistance as authorized under 42 USC 1396a(a)(10)(A)(ii), as amended from time to time, to persons who are disabled and regularly employed.
3. "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))
4. Conn. Gen. Stats. § 17b-597(a) provides the Department of Social Services shall establish and implement a working persons with disabilities program to provide medical assistance as authorized under 42 USC 1396a(a)(10)(A)(ii), as amended from time to time, to persons who are disabled and regularly employed. (b) The Commissioner of Social Services shall amend the Medicaid state plan to allow persons specified in subsection (a) of this section to qualify for medical assistance. The amendment shall include the following requirements: (1) That the person be engaged in a substantial and reasonable work effort as determined by the commissioner and as permitted by federal law and have an annual adjusted gross income, as defined in Section 62 of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as amended from time to time, of no more than seventy-five thousand dollars per year; (2) a disregard of all countable income up to two hundred per cent of the federal poverty level; (3) for an unmarried person, an asset limit of ten thousand dollars, and for a married couple, an asset limit of fifteen thousand dollars; (4) a disregard of any retirement and medical savings accounts established pursuant to 26 USC 220 and held by either the person or the person's spouse; (5) a disregard of any moneys in

accounts designated by the person or the person's spouse for the purpose of purchasing goods or services that will increase the employability of such person, subject to approval by the commissioner; (6) a disregard of spousal income solely for purposes of determination of eligibility; and (7) a contribution of any countable income of the person or the person's spouse which exceeds two hundred per cent of the federal poverty level, as adjusted for the appropriate family size, equal to ten per cent of the excess minus any premiums paid from income for health insurance by any family member, but which does not exceed the maximum contribution allowable under Section 201(a)(3) of Public Law 106-170, as amended from time to time. (c) The Commissioner of Social Services shall implement the policies and procedures necessary to carry out the provisions of this section while in the process of adopting such policies and procedures in regulation form, provided notice of intent to adopt the regulations is published in the Connecticut Law Journal within twenty days after implementation. The commissioner shall define "countable income" for purposes of subsection (b) of this section which shall take into account impairment-related work expenses as defined in the Social Security Act. Such policies and procedures shall be valid until the time final regulations are effective.

Uniform Policy Manual ("UPM") § 2540.85 provides there are two distinct groups of employed individuals between the ages of 18 and 64 inclusive who have a medically certified disability or blindness and who qualify for Medicaid as working individuals with disabilities. These groups are the Basic Insurance Group and the Medically Improved Group. There is a third group of employed individuals consisting of persons at least 18 years of age who have a medically certified disability or blindness who also qualify for Medicaid as working individuals with disabilities. This is the Balanced Budget Act Group. Persons in this third group may be age 65 or older.

The Appellant is eligible under the Balanced Budget Act Group.

5. UPM § 2540.85(A)(3) provides for the asset criteria. a. The asset limit is \$10,000.00 for an individual and \$15,000.00 for a married couple living together. b. In addition to the assets excluded under the Medicaid program, the following assets are also excluded: (1) retirement and medical savings accounts established pursuant to 26 USC 220 and held by either the individual or his or her spouse; and (2) accounts held by the individual or spouse and designated by such person as being held for the purpose of buying goods or services that will increase the employability of the individual. Such accounts are subject to the approval of the Department. c. The assets excluded in section 2540.85 A. 3. b. retain their excluded status for the life of the individual, even if he or she loses eligibility under this coverage group.

The Appellant is a household of one. Her asset limit is \$10,000.00.

6. UPM § 4030.05(A) provides that bank accounts include the following. This list is not all inclusive: 1. Savings account; 2. Checking account; 3. Credit union account; 4. Certificate of deposit; 5. Patient account at long-term care facility; 6. Children's school account; 7. Trustee account; 8. Custodial account.

UPM § 4030.05(D) provides for excluded accounts for working individuals with disabilities. The following assets are excluded in determining the Medicaid eligibility of working individuals with disabilities (Cross Reference: 2540.85): 1. retirement and medical savings accounts established pursuant to 26 USC 220 and held by either the individual or his or her spouse; and 2. accounts held by the individual or spouse and designated by such person as being held for the purpose of buying goods or services that will increase the employability of the individual. Such accounts are subject to the approval of the Department.

UPM § 4099.05(A) provides for the asset limit requirement. 1. The assistance unit must verify its equity in counted assets. 2. If the unit does not verify its equity in counted assets, the unit is ineligible for assistance.

UPM § 4099.10(A) provides for Ownership Determination. 1. The assistance unit must verify that it is not the legal owner of an asset if the unit claims to be merely the record owner of the asset. 2. If the unit is unable to verify that it is merely the record owner, and not the legal owner of an asset, the Department counts the asset as owned by the assistance unit.

7. UPM § 1010.05(A) provides that the assistance unit must supply the Department in an accurate and timely manner as defined by the Department, all pertinent information, and verification that the Department requires to determine eligibility and calculate the amount of benefits.

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.

The Department correctly determined that additional information was required when they received the AVS results showing that the Appellant is associated with additional bank accounts that were not included on her application.

The Department requested verification of the last three bank statements from the [REDACTED] but failed to specify that they required verification of the ownership of the bank accounts that were listed in the AVS bank query.

On [REDACTED] 2021, the Department incorrectly denied the Appellant's application for S05 due to failure to provide information.

DECISION

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

ORDER

1. The Department shall reopen the Appellant's S05 application effective the date of application.
2. The Department shall give the Appellant 10 days to verify the bank accounts that she does not own.
3. Compliance with this order shall be forwarded to the undersigned no later than ■■■ 2021.



Carla Hardy
Hearing Officer

Pc: Musa Mohamud, DSS R.O. Hartford
Judy Williams, DSS R.O. Hartford
Jessica Carroll, DSS R.O. Hartford
Jay Bartolomei, DSS R.O. Hartford
Rose Montinat, DSS R.O. 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 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, 165 Capitol Avenue, 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.