

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 # ██████████
CLIENT# ██████████
REQUEST# ██████████

NOTICE OF DECISION

PARTY

████████████████████
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PROCEDURAL BACKGROUND

On ██████████ 2021, the Department of Social Services (the "Department") sent ██████████ ██████████ (the "Appellant"), a Notice of Action ("NOA") denying her application for H01 Husky A Home and Community Based Services for Children benefits for ██████████ ██████████ (the "Appellant's child") due to no eligible household members.

On ██████████ 2021, the Appellant requested an administrative hearing to contest the denial of her application for H01 Husky A Home and Community Based Services for Children benefits due to no eligible household members.

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

On ██████████ 2021, OLCRAH issued a notice rescheduling 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, [REDACTED]
Appellant's Representative/Nurse Care Coordinator, [REDACTED]
[REDACTED]
Department's Representative, Stacey Carrier
Hearing Officer, Joshua Couillard

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly denied the Appellant's application for H01 Husky A Home and Community Based Services for Children benefits due to no eligible child in the household.

FINDINGS OF FACT

1. On [REDACTED], 2021, the Appellant applied for the H01 Husky A Home and Community Based Services for Children program for her daughter. (Exhibit 2: Case Notes, Department's Testimony, Hearing Record)
2. The Appellant's child is 3-years-old [DOB: [REDACTED] 2017]. She is disabled and receives Supplemental Security Income ("SSI") benefits. (Appellant's Testimony, Exhibit 2)
3. An H01 is a Husky A Medicaid assistance home and community-based care program for individuals under the age of 18 that meet certain medical needs. (Department's Testimony)
4. On [REDACTED] 2021, the Department confirmed that the Appellant's child is not on the Katie Beckett waiver waitlist. (Exhibit 1: Email Correspondence)
5. On [REDACTED], 2021, the Department inquired with the Department of Developmental Services ("DDS") as to whether the Appellant's child was known to DDS. (Exhibit 1)
6. On [REDACTED] 2021, the Department confirmed that the Appellant's child is not known to DDS. (Exhibit 1)
7. On [REDACTED] 2021, the Department reviewed the case and determined that the Appellant's child was not eligible for the H01 program due to a failed assessment and failure to meet program requirements, as she was not on the Katie Beckett waiver waitlist at the time of application, as required. (Department's Testimony, Hearing Record)
8. On [REDACTED] 2021, the Department issued a NOA to the Appellant denying her application for H01 Husky A Home and Community Based Services for Children due to no eligible household members. (Exhibit 3: NOA)

9. On [REDACTED] 2021, [REDACTED] after the denial, the Appellant's child was placed on the Katie Beckett waiver waitlist. (Appellant's Testimony)
10. 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 hearing request was received on [REDACTED] 2021. An additional [REDACTED] were added due to rescheduling; therefore, this decision is due no later than [REDACTED], 2021.

CONCLUSIONS OF LAW

1. "*Programs administered by the Department of Social Services.* The Department of Social Services is designated as the state agency for the administration of the state social services plan for the implementation of the social services block grants and community services block grants pursuant to the Social Security Act." Connecticut General Statutes (Conn. Gen. Stat.) § 17b-2 (10)
2. "*Eligibility.* Payment for home health services is available to all persons eligible for Medicaid subject to the conditions and limitations which apply to these services." Regulations of Connecticut State Agencies (Regs., Conn. State Agencies) § 17b-262-4
3. "*Medicaid home and community-based services waiver program for children and young adults with disabilities.* The Commissioner of Social Services shall, within available appropriations, administer a Medicaid waiver program pursuant to Section 1915(c) of the Social Security Act to provide home and community-based services for persons who are institutionalized or at risk of institutionalization and who (1) are twenty-one years of age or younger; (2) have a physical disability and may also have a co-occurring developmental disability; and (3) meet the financial eligibility criteria established in the waiver." Conn. Gen. Stat. § 17b-283
4. 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))
5. "*Definitions.* 'Applicant' means a person who, directly or through a representative, completes a Katie Beckett waiver program application form and submits it to the department." Regs., Conn. State Agencies (proposed) § 17b-283-3(2)
6. "'Assessment' means a comprehensive written evaluation conducted by a nurse case manager, using a standard assessment tool. The assessment is the basis for the department's determination of whether or not an applicant meets the level of care criteria for participation in the Katie Beckett waiver program." Regs., Conn. State Agencies (proposed) § 17b-283-3(3)

7. "Individual' means a person who has applied for and has been found eligible for the Katie Beckett waiver program." Regs., Conn. State Agencies (proposed) § 17b-283-3(9)
8. "Total plan of care costs' means the monthly cost of Katie Beckett waiver services and medical services included in an individual's plan of care that are required in order for the individual to live in the community instead of an institution." Regs., Conn. State Agencies (proposed) § 17b-283-3(22)
9. "Waiting list' means the record maintained by the department, after the program reaches the maximum capacity permitted under the waiver, that includes the names of applicants who have submitted applications for the Katie Beckett waiver program and specifies the date on which the completed waiver application was received from the applicant. Regs., Conn. State Agencies (proposed) § 17b-283-3(23)

The Department correctly determined that the Appellant was not eligible for Katie Beckett H01 Husky A Home and Community Based Services for Children as an assessment and total plan of care costs was not completed. The Appellant did not establish medical assistance eligibility under a waiver program prior to the H01 application.

10. "*Coverage Groups Description.* This group includes individuals who: 1. would be eligible for HUSKY A as categorically needy if residing in a long term care facility (LTCF); and 2. qualify to receive home and community-based services under a waiver approved by the Centers for Medicare and Medicaid Services; and 3. would, without such services, require care in an LTCF." UPM § 2540.64 (A)
11. "*Duration of Eligibility.* Individuals qualify for HUSKY A as categorically needy for as long as they meet the conditions above and receive home and community-based services under a waiver." UPM § 2540.64 (B)
12. "*Purpose.* The Katie Beckett waiver program is not an entitlement; therefore, services and access to services under the Katie Beckett waiver program may be limited, based on available funding and program capacity." Regs., Conn. State Agencies (proposed) § 17b-283-1
13. "*Eligibility and Determination of Need.* An applicant is eligible to receive coverage for the cost of nurse case management services through the Katie Beckett waiver program if the applicant qualifies by meeting all of the technical, income and programmatic requirements specified in subsections (b) to (d), inclusive, of this section." Regs., Conn. State Agencies (proposed) § 17b-283-4

There is no evidence that the Appellant met all of the technical, income and programmatic requirements. Furthermore, the Appellant was not properly

approved for the Katie Beckett H01 Husky A Home and Community Based Services for Children prior to the H01 application.

The Department correctly denied the Appellant's application for H01 Husky A Home and Community Based Services for Children.

DECISION

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

Joshua Couillard

**Joshua Couillard
Fair Hearing Officer**

**CC: New Haven Regional Office Manager, Rachel Anderson
New Haven Regional Office Manager, Mathew Kalarickal
New Haven Regional Office Manager, Lisa Wells
Department's Representative, Stacey Carrier**

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.