

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 # 179965

**NOTICE OF DECISION**  
**PARTY**

██████████  
██████████  
██████████

**PROCEDURAL BACKGROUND**

On ██████████ 2021, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a notice of action denying her Husky C - Medicaid application for Home and Community-Based Services ("HCBS") for failing to provide information.

On ██████████ 2021, the Appellant's representative ██████████ requested an administrative hearing to contest the Department's decision to deny his ██████████ application for HCBS.

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 4-184, inclusive of the Connecticut General Statutes, OLCRAH held an administrative hearing by telephone.

The following individuals called into the hearing:

██████████ Appellant's Representative  
Amanda Cunningham, Department's Representative  
Christopher Turner, Hearing Officer

The Appellant did not participate in the hearing.

## **STATEMENT OF THE ISSUE**

The issue is whether the Department's action to deny the Appellant's HCBS application due to failure to provide the information needed to establish eligibility was correct.

## **FINDINGS OF FACT**

1. On [REDACTED] 2021, the Department received the Appellant's online application for HCBS. (Exhibit A: Application; Exhibit E: Case notes; Hearing summary)
2. On [REDACTED] 2021, a Department representative sent the Appellant a "Proofs We Need" form ("W-1348") requesting bank account balances from [REDACTED] application signature page, legal guardianship documents. A [REDACTED] 2021, due date was given for the return of the requested information. (Exhibit 1A: W1348; Exhibit E; Hearing summary)
3. On [REDACTED] 2021, a Department representative sent the Appellant a "Proofs We Need" form ("W-1348") requesting bank account balances from [REDACTED] and [REDACTED], application signature page, legal guardianship documents. A [REDACTED], 2021, due date was given. The 1348 noted the date the Department will act by to be [REDACTED], 2021. (Exhibit 1B: W1348; Exhibit E; Hearing summary)
4. On [REDACTED] 2021, the Department received partial information from the Appellant's representative and sent the Appellant's representative an updated 1348. A [REDACTED] 2021, due date was given for return. The 1348 noted the date the Department will act by to be [REDACTED] 2021. (Exhibit 1C; Exhibit E; Hearing summary)
5. On [REDACTED] 2021 the Department's representative denied the Appellant's HCBS application for failure to provide information. (Exhibit E; hearing summary)
6. On [REDACTED] 2021, an inter-departmental memo ("M2-T") was received from [REDACTED] the Appellant's DDS case manager, (requesting the Department reopen the Appellant's HCBS application). Included with the M2-T were [REDACTED] Credit Union statements from [REDACTED] 2020, [REDACTED] 2020, [REDACTED] 2021 through [REDACTED] 2021. (Exhibit E; Hearing summary; Department's testimony)
7. On [REDACTED] 2021, the Department received partial information from the Appellant's representative and sent the Appellant's representative an updated 1348. A [REDACTED] 2021, due date was given for return. (Exhibit 1D; Exhibit E; Hearing summary)
8. On [REDACTED] 2021, the Department received partial information from the Appellant's representative and sent the Appellant's representative an updated 1348. A [REDACTED] 2021, due date was given for return. The 1348 noted the date the Department will act to be no later than [REDACTED] 2021. (Exhibit 1E; Exhibit E; Hearing summary)

9. On [REDACTED] 2021, the Department received partial information from the Appellant's representative and sent the Appellant's representative an updated 1348. An [REDACTED] [REDACTED] 2021, due date was given for return. The 1348 noted the date the Department will act to be no later than [REDACTED] 2021 (Exhibit 1F; Exhibit E; Hearing summary)
10. On [REDACTED] 2021, the Department received partial information from the Appellant's representative and sent the Appellant's representative an updated 1348. An [REDACTED] [REDACTED] 2021, due date was given for return. The 1348 noted the date the Department will act to be no later than [REDACTED] 2021 (Exhibit 1G; Exhibit E; Hearing summary)
11. On [REDACTED] 2021, the Department denied the Appellant's HCBS application for failure to provide the requested information needed to determine eligibility. (Exhibit D: Notice; Exhibit E; Hearing summary)
12. The Appellant is [REDACTED] years old (DOB [REDACTED]) and receives a gross monthly Social Security Disability benefit of \$[REDACTED]00. (Exhibit A; Record; Testimony)
13. The Appellant attends a DDS day program and needs HCBS services when she returns home in the afternoon. (Representative's testimony)
14. On [REDACTED] 2021, the Department approved the Appellant's HCBS application with an effective date of [REDACTED] 2021. (Exhibit E: E-Mail)
15. The issuance of this decision is timely under Connecticut General Statutes ("Conn. Gen. Stat.") §17b-61(a), which requires that a decision be rendered within 90 days of the request for an administrative hearing. The Appellant's representative requested an administrative hearing on [REDACTED] 2021, with this decision due no later than [REDACTED] 2021. (Record)

### **CONCLUSIONS OF LAW**

1. Connecticut General Statutes ("Conn. Gen. Stat.") § 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.

Conn. Gen. Stat. § 17b-260 provides the Commissioner of Social Services is authorized to take advantage of the medical assistance programs provided in Title XIX, entitled "Grants to States for Medical Assistance Programs", contained in the Social Security Amendments of 1965 and may administer the same in accordance with the requirements provided therein, including the waiving, with respect to the amount paid for medical care, of provisions concerning recovery from beneficiaries or their estates, charges and recoveries against legally liable relatives, and liens against property of beneficiaries.

Conn. Gen. Stat. § 17b-264 provides for the extension of other public assistance provisions. All the provisions of sections 17b-22, 17b-75 to 17b-77, inclusive, 17b-79 to 17b-83, inclusive, 17b-85 to 17b-103, inclusive, and 17b-600 to 17b-604, inclusive, are extended to the medical assistance program except such provisions as are inconsistent with federal law and regulations governing Title XIX of the Social Security Amendments of 1965 and sections 17b-260 to 17b-262, inclusive, 17b-264 to 17b-285, inclusive, and 17b-357 to 17b-361, inclusive.

**The Department has the authority to administer and determine eligibility for the Medicaid program.**

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*, 214 Conn. 601, 573 A.2d 712 (1990)).
3. Regulations of Connecticut State Agencies ("Regs. Conn. State Agencies") § 17b-4(a) provides for community-based services.

Regs. Conn. State Agencies 17b-4(a)-2 provides for conditions and standards of eligibility for community-based services.

Regs. Conn. State Agencies 17b-4(a)-2 (b) provides for eligible adults. (1) In order to be eligible for any services, the adult must reside in Connecticut, be between the ages of 18 and 64, be a person with a disability as defined in Section 17b-4 (a)-1 and meet the income guidelines as defined in subsection (d) of this section.

Regs. Conn. State Agencies 17b-4(a)-2 (c) provides for medical need for Community-Based Services will be determined by the Department as follows: (4) The Department may authorize Community-Based Services for families and adults when the social worker's assessment indicates that a need for services exists due to an individual's disability, appropriate medical data confirms this assessment, and fiscal information verifies that there is financial eligibility.

UPM § 2540.92 (A) provides for the coverage group description. This group includes individuals who: 1. would be eligible for MAABD 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 services, require care in an LTCF.

**The Department correctly determined the Appellant is considered disabled under the MAABD program as she is between 18-65 years of age.**

4. UPM § 1010.05 (A) (1) 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 (cross reference: 1555).

UPM § 1010.05 (A) (2) provides the assistance unit must permit the Department to verify information independently whenever the unit is unable to provide the necessary information, whenever verification is required by law, or whenever the Department determines that verification is necessary (Cross reference: 1540).

UPM § 1015.05 (C) provides that the Department must tell the assistance unit what the unit must do to establish eligibility when the Department does not have sufficient information to make an eligibility determination.

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 sent the Appellant's representative many W-1348's requesting additional information needed to determine eligibility while giving the Appellant's representative ten days to provide said information.**

5. UPM § 1570.05(A) provides that "The purpose of the Fair Hearing process is to allow the requester of the Fair Hearing to present his or her case to an impartial hearing officer if the requester claims that the Department has either acted erroneously or has failed to take a necessary action within a reasonable period.

UPM § 1570.25 (C)(2)(k) provides that the Fair Hearing Official renders a Fair Hearing decision in the name of the Department, in accordance with the Department's policies and regulations, to resolve the dispute.

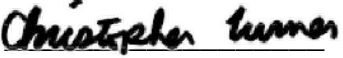
"When the actions of the parties themselves cause a settling of their differences, a case becomes moot." McDonnell v. Maher, 3 Conn. App. 336 (Conn. App. 1985), citing, Heitmuller v. Stokes, 256 U.S. 359, 362-3, 41 S.Ct. 522, 523-24, 65 L.Ed. 990 (1921).

**The Appellant's representative requested the hearing to appeal the denial of her daughter's HCBS application. On [REDACTED] 2021, the Department granted the Appellant's application for HCBS. Therefore, the issue is no longer in dispute.**

**After the Department's approval of the Appellant's HCBS application, there is no practical relief that can be afforded through an administrative hearing.**

**DECISION**

The Appellant's appeal is dismissed as moot.

  
Christopher Turner  
Hearing Officer

Cc: Musa Mohamud, DSS Operations Manager Hartford  
Judy Williams, DSS Operations Manager Hartford  
Jessica Carroll, DSS Operations Manager Hartford  
Jay Bartolomei, DSS Supervisor Hartford  
Amanda Cunningham, DSS 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, law, and 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 requested 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 the 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 the 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 if 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 to 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 her designee following §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.