

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

██████████ 2022
Signature Confirmation

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██████████
Hearing # 185764

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 HUSKY C - Medical Assistance for the Aged, Blind and Disabled ("MAABD") Medicaid benefit.

On ██████████ 2021, the Appellant requested an administrative hearing to contest the Department's decision to deny the MAABD.

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
██████████, Appellant's Authorized Representative, and daughter
Ferris Clare, Department's Representative
Jessica Gulianello, Department's observer

Carla Hardy, Hearing Officer

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

The administrative hearing remained open for the submission of additional evidence from the Appellant and the Department. Additional evidence was received from the Department. The Appellant did not submit additional evidence. The hearing record closed on [REDACTED] 2021.

STATEMENTS OF THE ISSUE

The issue is whether the Department correctly denied the Appellant's application for Medical Assistance under the MAABD program.

FINDINGS OF FACT

1. On [REDACTED] 2021, the Department received the Appellant's application for medical assistance for a household of one person. (Exhibit 1: Partial Application, [REDACTED]21; Hearing Summary; Hearing Record)
2. [REDACTED] is the Appellant's Authorized Representative ("arep") and daughter. (Exhibit 1, Hearing Record)
3. The Appellant is 67 years old. (After Hearing Exhibit 4: Case Notes)
4. The Appellant has a [REDACTED] checking and savings account. (Hearing Summary)
5. The [REDACTED] checking account has a balance of \$291.56 and the savings account has a balance of \$1,000.00. (Exhibit 2: NOA, [REDACTED]21)
6. The Appellant receives a \$1,429.00 monthly pension. (Exhibit 2)
7. The Appellant reported ownership of a home located at [REDACTED] in [REDACTED] Connecticut ("the property"). (Arep's Testimony, Hearing Summary)
8. The property is a three bedroom, seven room home that has 1,232 square feet. (Exhibit 4)
9. The Appellant has not resided in this home since [REDACTED] 2020 due to her inability to maintain the home. (Arep's Testimony)
10. The Department's Resources Unit determined that the home has a \$308,000.00 fair market value based on comparable sales data. (Exhibit 4)

11. The mortgage on the property equals \$294,574.27. (Exhibit 3: Real Property Details, Hearing Summary)
12. The Department calculated the Appellant's equity in the property equaled \$5,425.73 (\$300,000.00 - \$294,574.27 = \$5,425.73). (After Exhibit 5: MA – Assets Test)
13. The Department did not use the Resources Unit's \$308,000.00 fair market value in its calculation of the Appellants equity value in the home. (Fact # 10 and 12)
14. The Appellant applied for a Mortgage Assistance Program which prevented the mortgage company from initiating foreclosure on the property. The grace period for the program expired on [REDACTED] 2021. (Arep's Testimony)
15. The Appellant owes \$4,000.00 in overdue mortgage payments. (Arep's Testimony)
16. The Appellant's property was placed on the market in [REDACTED] 2021 and then taken off the market in [REDACTED] 2021 due to the Appellant's dementia diagnosis. (Arep's Testimony)
17. On [REDACTED] 2021, the Department sent the Appellant a notice denying the MAABD medical benefits because the value of her assets exceeded the amount allowed by the program. (Exhibit 2: NOA, [REDACTED]/21)
18. 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] 2021. Therefore, this decision is due not later than [REDACTED] 2022. However, the close of the hearing record, which had been anticipated to close on [REDACTED] 2021, did not close for the admission of evidence until [REDACTED] 2021, at the Appellant's request. Because this 5-day delay resulted from the Appellant's request, this final decision is not due until [REDACTED] 2022. (Hearing Record)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer 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. UPM § 5500.01 provides that a needs group is the group of persons comprising the assistance unit and certain other persons whose basic needs are added to the total needs of the assistance unit members when determining the income eligibility of the assistance unit.
4. UPM § 5515.05(C)(2) provides that the needs group for an applicant or recipient under the MAABD program includes the following:
 - a. the applicant or recipient; and
 - b. the spouse of the applicant or recipient when they share the same home regardless of whether one or both are applying for or receiving assistance, except in cases involving working individuals with disabilities. In these cases, the spouse (and children) are part of the needs group only in determining the cost of the individual's premium for medical coverage.
5. UPM § 2015.05(A) provides that the assistance unit in assistance to the Aged, Blind or Disabled ("AABD") and MAABD consists of only one member. In these programs, each individual is a separate assistance unit.

The Department correctly determined that the Appellant is in a needs group of one and an assistance unit of one.

6. UPM § 4030 provides that the Department evaluates all types of assets available to the assistance unit when determining the unit's eligibility for benefits.
7. UPM § 4000.01 provides that non-home property is real property which a person owns but is not using as principal residence.

The Department correctly determined that the Appellant owns non-home property.

8. UPM § 4005.05(D) provides that an assistance unit is not eligible for benefits under a particular program if the unit's equity in counted assets exceeds the asset limit for the particular program.
9. Uniform Policy Manual ("UPM") § 4005.10(A)(2) provides for the asset limit for AABD and MAABD – Categorically and Medically Needy (Except Qualified Medicare Beneficiaries, Specified Low Income Medicare Beneficiaries, Additional Low Income Medicare Beneficiaries, Qualified Disabled and Working Individuals, Working Individuals with Disabilities and Women Diagnosed with Breast or Cervical Cancer)
 - a. The asset limit is \$1,600.00 for a needs group of one.

- b. The asset limit is \$2,400.00 for needs group of two.
10. UPM 4005.15(B)(2)(a) provides that if the assistance unit does not reduce its excess assets to an allowable level by the end of the month the excess first occurs, the unit is ineligible as of the first day of the following month and remain eligible unit the first day of the month in which the unit properly reduces its assets to an allowable level.
11. UPM § 4030.05(C)(1) provides that non-home property of any type is excluded as long as the assistance unit is making a bona fide effort to sell it.

The Department correctly determined that the Appellant's equity in her non-home property is not excluded, and that it is accessible and countable.

The Department correctly determined that the Appellant's assets exceeded the \$1,600.00 asset limit.

12. On [REDACTED] 2021, the Department correctly denied the HUSKY C-MAABD because her assets exceed the limit for the program.

DECISION

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

Carla Hardy

Carla Hardy
Hearing Officer

Pc: Yecenia Acosta, Tim Latiffi, Robert Stewart, Operations Managers;
Bridgeport Office
Jacqueline Taft, Ferris Clare, Hearing Liaisons, Bridgeport Office

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.