

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

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

Client ID ██████████
Case ID ██████████
Request # 185353

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”) closing her Medicaid benefits under the Husky C – Working Disabled Program (“Husky C”) effective ██████████ 2021.

On ██████████ 2021, the Appellant requested an administrative hearing to contest the Department’s decision to close such benefits.

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 via teleconference.

The following individuals called in for the hearing:

██████████, Appellant
Xiomara Natal, Department Representative
Lisa Nyren, Fair Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's [REDACTED], 2021 decision to close the Appellant's Medicaid benefits under the Husky C program effective [REDACTED] 2021 was correct.

FINDINGS OF FACT

1. The Appellant received medical assistance under the Husky C program for a household of one, herself. The Appellant is age [REDACTED] years. (Hearing Record)
2. In [REDACTED] 2021, the Appellant returned to her work site at the [REDACTED] [REDACTED] ("Center"), [REDACTED] working 9:00 am to 1:00 pm five days per week or 20 hours per week for [REDACTED] (the "employer"). (Appellant's Testimony and Exhibit 1: Supporting Documents)
3. The employer pays the Appellant via direct deposit. The Appellant does not receive paystubs. To access payroll information, the Appellant requires the assistance of a supervisor to access her online payroll data because the Appellant does not own a computer. (Appellant's Testimony)
4. The Appellant owns a checking account at [REDACTED] (the "bank") valued at \$292.22 and a savings account at the bank valued at \$1.28 as verified by the Department through the Department's online asset verification database. (Exhibit 2: Case Notes)
5. The Appellant owns a life insurance policy through [REDACTED] [REDACTED] ("life insurance") to pay for burial costs upon her death. (Appellant's Testimony and Exhibit 2: Case Notes)
6. On [REDACTED], 2021, the Department issued a notice to renew the Appellant's medical benefits under the Husky C program. With the notice to renew, the Department included a renewal form to be completed by the Appellant and returned to the Department by [REDACTED] [REDACTED] 2021. (Department Representative's Testimony)
7. On [REDACTED] 2021, the Department received a renewal form from the Appellant. The renewal form was not signed by the Appellant. The Appellant included her [REDACTED], 2021 paystub from the employer with her renewal form. (Department Representative's Testimony, Exhibit 2: Case Notes, Exhibit 7: Document Search)
8. On [REDACTED] 2021, the Department issued the Appellant a Missing Signature Notice for Renewals and included the renewal signature page.

The Department requested the Appellant sign the signature page and return it to the Department. (Department Representative's Testimony, Exhibit 3: Supporting Documents, and Exhibit 7: Document Search)

9. On [REDACTED] 2021, the Department received the Appellant's signed and dated [REDACTED] 2021 signature page. Included with the signature page, the Appellant submitted a written statement, and a rights and responsibilities page. The Appellant writes, "I returned all forms to you weeks ago and I signed every page. This is my signature [unknown] and I read the rules." (Exhibit 2: Case Notes, Exhibit 3: Supporting Documents, Exhibit 7: Document Search, and Department Representative's Testimony)
10. On [REDACTED] 2021, the Department determined the Appellant ineligible for medical benefits under the Husky C program because the redetermination process was not completed. The Department closed the Appellant's medical benefits under the Husky C program effective [REDACTED] 2021. (Exhibit 5: Notice of Action and Exhibit 2: Case Notes)
11. On [REDACTED] 2021, the Department issued the Appellant a Notice of Action informing her that the Department closed the Appellant's medical benefits under the Husky C program effective [REDACTED] 2021 for the following reasons: "Renewal form was not submitted, renewal process not completed, no household members are eligible for this program [and] does not meet program requirements." (Exhibit 5: Notice of Action)
12. On [REDACTED] 2021, the Department reviewed the Appellant's renewal form, signature page, paystub, and Appellant's statement. The Department obtained verification of the checking and savings account balances under the asset verification data base. (Exhibit 2: Case Notes)
13. As of [REDACTED] 2021, the Department continued to process the Appellant's request for renewal of medical benefits under the Husky C program effective [REDACTED] 2021. The standard of promptness to process this request for continued benefits is forty-five (45) days from the date of application. (Department Representative's Testimony)
14. On [REDACTED] 2021, the Department issued the Appellant a Proofs We Need (W-1348) form requesting proof of gross earnings specifically four recent paystubs from the employer and proof the life insurance policy. The Department listed the due date as [REDACTED] 2021. (Exhibit 6: Proofs We Need and Department Representative's Testimony)

15. On [REDACTED], 2021, the Department completed a document search for proof of earnings and proof of life insurance from the Appellant. No documents were found by the Department. (Exhibit 2: Case Notes)
16. The Appellant did not send proof of earnings or proof of life insurance policy to the Department by the [REDACTED] [REDACTED] 2021 due date. (Appellant's Testimony)
17. The Department did not receive proof of earnings or proof of life insurance policy from the Appellant by the [REDACTED] [REDACTED] 2021 due date. (Department's Testimony)
18. On [REDACTED] 2021, the Department spoke with the Appellant to inform her proof of earnings and life insurance remain outstanding. (Exhibit 2: Case Notes)
19. On [REDACTED], 2021, the Appellant contacted the life insurance company to request proof of benefits via phone. The life insurance company informed the Appellant proof of benefits will take 5-7 business days to release. (Appellant's Testimony)
20. The Appellant contacted her supervisor to request proof of earnings, but the supervisor was not available to honor her request. The Appellant intends to return to the employer's office to request proof of earnings again. The employer's office differs from her work site. (Appellant's Testimony)
21. On [REDACTED] [REDACTED], 2021, the Department attempted to contact the Appellant's employer via telephone. The Department left a voicemail for the employer. (Exhibit 2: Case Notes and Department Representative's Testimony)
22. As of the date of this hearing, [REDACTED] 2021, the Department has not received proof of the Appellant's earnings or proof of the life insurance policy. (Department Representative's Testimony)
23. As of the date of this hearing, [REDACTED], 2021, the Appellant's renewal of her medical benefits under the Husky C program remains pending. (Department Representative's Testimony)
24. 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.

CONCLUSIONS OF LAW

1. Section 17b-2(6) of the Connecticut General Statutes ("Conn. Gen. Stat.") provides as follows: "The Department of Social Services is designated as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act."
2. "The Department of Social Services shall establish and implement 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." Conn. Gen. Stat. § 17b-597(a)
3. State statute provides as follows:

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.

Conn. Gen. Stat. § 17b-597(b)

4. 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))

5. Section 2540.85 of the Uniform Policy Manual provides as follows:

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.

6. Department policy provides for Working Individuals with Disabilities Balanced Budget Act Group as follows:

1. An individual in this group, which is authorized under the Balanced Budget Act of 1997 (BBA), is subject to the same conditions described in section 2540.85 A concerning employment status, income eligibility tests, asset eligibility tests and computation of premiums.
2. An individual in this group who is age 65 or older is eligible for Medicaid as long as he or she meets all the eligibility requirements of section 2540.85 A and has a medically certified disability or blindness.

UPM § 2540.85(C)

7. Department policy provides as follows:

The eligibility of an assistance unit is periodically redetermined by the Department. During the redetermination, all factors relating to eligibility and benefit level are subject to review. This chapter discusses the requirements of the redetermination process, its purpose, and how the Department conducts a redetermination of eligibility.

UPM § 1545

Department policy provides as follows:

1. Eligibility is redetermined:
 - a. Regularly on a scheduled basis; and
 - b. As required on an unscheduled basis because of known, questionable or anticipated changes in assistance unit circumstances.

2. A redetermination constitutes:
 - a. A complete review of AFDC, AABD or MA certification;
 - b. A reapplication for the FS program.
3. In general, eligibility is redetermined through the same methods by which eligibility is initially determined at the time of application.

UPM § 1545.05(A)

8. “The Department is required to provide assistance units with timely notification of the scheduled redetermination.” UPM § 1545.15(A)(1)

“Upon implementation of the EMS system, notice of the redetermination must be issued no earlier than the first day, or later than the last day of the month preceding the redetermination month.” UPM § 1545.15(B)(1)(b)

“The final month of the redetermination period is considered to be the redetermination month, even if the review is conducted in the prior month.” UPM § 1545.10(A)(1)(d)

“The Department provides each assistance unit with a redetermination form at the same time unit is issued its notice of redetermination.” UPM § 1545.25(C)

On [REDACTED], 2021, the Department correctly issued a notice of redetermination to the Appellant timely.

On [REDACTED] 2021, the Department correctly provided the Appellant with a redetermination form included with the notice of redetermination.

9. “Assistance units are required to complete a redetermination form at each redetermination.” UPM § 1545.25(A)

“The AFDC, AABD, or MA redetermination must be completed by the appropriate individual listed below. The AABD or MA recipient.” UPM § 1545.30(B)(1)

“An assistance unit must submit the redetermination form by the following date in order to be considered timely filed. All other PA and FS non-monthly reporting assistance units must file by the fifteenth day of the redetermination month.” UPM § 1545.35(B)(1)(b)

Department policy provides as follows:

The assistance unit is considered to have timely filed if by the filing deadline the redetermination form is:

- a. Delivered in person or by mail to the appropriate district office, or for SSI assistance units being redetermined for food stamps, to an SSA office; and
- b. Complete to the extent that a legible name and address appear on the form; and
- c. Signed by the applicant or other qualified individual.

UPM § 1545.35(B)(2)

Although the Appellant submitted her unsigned redetermination form on ██████████ 2021, since it was not signed until ██████████ 2021, the Department correctly determined the Appellant's submission of her redetermination form as untimely since it was submitted after ██████████ 2021, the fifteenth of the redetermination month.

10. Department policy provides as follows:

The following actions must be timely completed in order to receive uninterrupted benefits:

- a. The redetermination form must be filed and completed; and
- b. The office interview must be completed, unless exempt from the requirement; and
- c. Required verification of factors that are conditions of eligibility must be provided.

UPM § 1545.35(A)(2)

“Assistance units are provided benefits without interruption by the first normal issuance date following the redetermination month if they timely complete the required actions of the redetermination process.” UPM § 1545.35(A)(1)

Department policy provides as follows:

If eligibility has not been reestablished by the end of the redetermination period, the department continues to provide assistance under the following conditions if it appears that the assistance unit will remain eligible:

1. When the agency is responsible for not completing the redetermination; or
2. When the assistance unit fails to act timely but completes the redetermination form and any required interview by the last day of the redetermination month; or

3. When the assistance unit demonstrates good cause for failing to complete the redetermination process.

UPM § 1545.40(B)(1)(a)

Although the Appellant's eligibility was not re-established by the end of the redetermination period, on [REDACTED], 2021 the Department incorrectly discontinued the Appellant's medical benefits under the Husky C program effective [REDACTED] [REDACTED] 2021 for the following reasons: Renewal form was not submitted, Renewal process not completed, No household members are eligible for this program, [and] Does not meet program requirements. The Department incorrectly interrupted the Appellant's benefits under the Husky C program because the Department received the redetermination form on [REDACTED] 2021 and failed to take any action until [REDACTED] 2021, [REDACTED]-days after the Department received the Appellant's redetermination form. Although the Department failed to reestablish eligibility by the end of the redetermination period or [REDACTED] 2021, Department policy provides that the Department must continue to provide assistance when the agency is responsible for not completing the redetermination.

11. "Except for the following rules, the redetermination interview requirements are the same as the requirement established for the application process. (Cross reference: 1505)" UPM § 1545.20(A)(1)

"In-office interview are required for AFDC assistance units at least once every twelve months, but no for SNAP, AABD, and MA assistance units." UPM § 1545.20(A)(2)

"Office interviews are not required for AABD or MA applicants. The application process may be completed entirely through mail correspondence and telephone contact." UPM § 1505.30(A)(3)

The Department correctly determined a redetermination interview with the Appellant as not required under Department policy.

12. "Circumstances subject to change, or which are unclear or questionable are investigated and verified." UPM 1545.05(B)(3)

"Prompt action is taken to effect any interim actions necessitated by changes in circumstances that are discovered during the redetermination process." UPM § 1545.05(C)(3)

"Interim actions are processed in accordance with the interim change rules. (Cross Reference: 1555)" UPM § 1545.05(C)(4)

“Changes affecting eligibility or benefits level include, but are not limited to the following: (1) changes in the source of income; (2) changes in the amount of income or resources, regardless of whether or not the income is countable. ...” UPM § 1555.15(B)

Department policy provides as follows:

Prior to taking corrective action the Department:

- a. Determines the accuracy of the information upon which it is acting; and
- b. May require verification of any reported information which is questionable.

UPM § 1555.30(A)(2)

Department policy provides in pertinent part: “All income must be verified as an eligibility requirement at the time of application, at each redetermination of eligibility, and whenever the income changes.” UPM § 5099.05

“The assistance unit must verify the following for the Department to evaluate each asset held by the assistance unit. This list is not necessarily all-inclusive. The amount of equity the assistance unit has in the asset.” UPM § 4099.30(A)(3)

“The assistance unit must verify its equity in counted assets.” UPM § 4099.05(A)(1)

On [REDACTED] 2021, the Department correctly determined verification of the Appellant’s gross monthly earnings and the value of the Appellant’s life insurance policy as an eligibility requirement at time of redetermination, effectively reopening the redetermination process under the Husky C program.

13. “The Department must tell the assistance unit what the unit has to do to establish eligibility when the Department does not have sufficient information to make an eligibility determination.” UPM 1015.05(c)

“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.” UPM § 1015.10(A)

On [REDACTED] 2021, the Department correctly issued the Appellant a Proofs We Need notice requesting verification of gross earnings

and the value of the life insurance policy as income and assets must be verified during the redetermination process.

14. Department policy provides as follows:

Required verification has been timely submitted if it is provided to the appropriate district office by the later of the following dates:

1. The deadline for filing the redetermination form; or
2. Ten days following the date the verification is initially requested by the Department.

UPM 1545.35(D)

The Department correctly allowed a minimum of 10-days to submit the requested verification to the Department, specifically proof of income and assets.

15. "If eligibility is continued, the assistance unit must complete the redetermination process by the end of the month following the redetermination month, unless circumstances beyond the units control continue to delay the process." UPM § 1545.40(B)(1)(b)

Department policy provides as follows:

Eligibility may be continued, and the redetermination held pending, as long as:

1. Circumstances beyond the control of the assistance unit delay completion of the redetermination process; and
2. The assistance unit appears to be eligible for assistance.

UPM § 1545.40(B)(1)(c)

Department policy provides as follows:

Good cause may include but is not limited to the following hardships.

1. Illness;
2. Severe weather;
3. Death in the immediate family;
4. Other circumstances beyond the control of the assistance unit.

UPM § 1545.40(B)(1)(d)

The Department failed to review good cause for the Appellant's delay in submitting the requested verification. The Appellant must rely on her employer to obtain proof of earnings because she does not own the technology, such as a computer, to access her payroll information online. The Appellant testified she requested the documentation from her supervisor, but her supervisor was not available to provide the needed payroll information. Additionally, the Department tried to assist the Appellant by telephoning her employer, but the Department received the employer's voice mail and continues to wait for a telephone call back from the Appellant's employer. The Appellant testified she finally reached the life insurance company to request proof of insurance which will take 5-7 business days to process this request. Currently, both the Appellant and the Department are waiting for information from a third party, which is beyond the control of the Appellant and the Department. The Appellant has established good cause for the delay in the submission of verification. Therefore, the Department's action to close the Appellant's medical benefits under the Husky C program was incorrect.

DISCUSSION

A review of Medicaid eligibility is conducted by the Department annually through the redetermination process to ensure a recipient continues to meet the eligibility criteria under the Medicaid program. This process includes a review of financial and non-financial criteria, as well as asset verification. At the administrative hearing, the Appellant stated she was not disabled. The Husky C – Working Disabled program is a Medicaid program for adults who have a medically certified disability or blindness and are employed. The Department is encouraged to review the disability criteria under the Husky C program during the redetermination of eligibility. The Department has limited access to electronic data sources to verify income such as social security and assets such as financial institutions/banks at time of redetermination. When such information is not available through electronic data sources, the recipient must provide the needed documents. Due to changes in payroll, the public health emergency, and the inability to access online data, the Appellant was not able to obtain the requested documentation timely. The Department failed to consider such delays.

DECISION

The Appellant's appeal is GRANTED.

ORDER

1. The Department must reopen the Appellant's Husky C medical benefits effective [REDACTED] 2021 and continue to process the redetermination until a determination of eligibility or ineligibility for the Husky C program can be made or good cause for the delays no longer exists.
2. As per Department policy, eligibility may be continued, and the redetermination held pending if circumstances beyond the control of the assistance unit delay completion of the redetermination process and the assistance unit appears to be eligible for assistance.
3. Compliance is due within 14 days of the date of this hearing.

Lisa A. Nyren
Lisa A. Nyren
Fair Hearing Officer

CC: Yecenia Acosta, SSOM RO #30
Tim Latifi, SSOM RO #30
Robert Stewart, SSOM RO #30
Xiomara Natal, FHL RO #30

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.