

FINDINGS OF FACT

1. On [REDACTED] 2021, the Department received the Appellant's HUSKY-C Medicaid application. (Department Exhibit 3)
2. On [REDACTED] 2021, the Department issued a *Proofs We Need* requesting the submission of the following by [REDACTED] 2021: twenty-four (24) months of most recent bank statements or a closure letter for [REDACTED]. The *Proofs We Need* advised that the Appellant's failure to submit the requested documentation by the deadline would result in the delay or denial of the Appellant's benefits. (Department Exhibit 4)
3. [REDACTED] is the Appellant's representative payee with respect to her Social Security benefits. (Appellant's Representative Testimony) (Department Exhibits 6 and 10) (Appellant Exhibit A)
4. In 2021, the Appellant's SSI [Supplemental Security Income] benefit equaled \$794.00 per month. (Department Exhibit 9)
5. [REDACTED] and [REDACTED] are the collective bank accounts held by [REDACTED] in which it deposits the Social Security benefits of individuals for whom [REDACTED] is representative payee. (Department Exhibits 6 and 10) (Appellant Exhibit A) (Appellant's Representative Testimony)
6. [REDACTED] currently deposits the Appellant's Social Security benefits into [REDACTED] [REDACTED] (Department Exhibits 6 and 10) (Appellant Exhibit A)
7. [REDACTED] issues checks from [REDACTED] to pay the Appellant's rent, utilities, and personal expenses the first week of every month. (Department Exhibits 6 and 10) (Appellant Exhibit A)
8. The Appellant's Representative submitted to the Department a [REDACTED] correspondence by a [REDACTED] bookkeeper identifying the [REDACTED] and [REDACTED] as collective accounts. Included with the submission was a ledger itemizing payments made by [REDACTED] for the Appellant's behalf from [REDACTED] 2019 through [REDACTED] 2021. (Department Exhibit 10)
9. On [REDACTED] 2021, the Appellant's Representative contacted the Department to check whether the Department had received his submission of the [REDACTED] bookkeeper's correspondence and ledger. (Department Exhibit 8)
10. On [REDACTED] 2021, the Department verified that it had received the [REDACTED] 2021 [REDACTED] bookkeeper's correspondence and ledger. (Department Exhibits 6, 8, and 10) (Hearing record)
11. On [REDACTED] 2021, the Appellant's available funds from apportionment of the [REDACTED] [REDACTED] [REDACTED] [REDACTED] and [REDACTED] [REDACTED] [REDACTED] equaled \$2,049.45. (Department Exhibits 6 and 10)

12. On [REDACTED] 2022, the Department denied the Appellant's [REDACTED] 2021 HUSKY-C Medicaid application. (Department Exhibit 5)
13. The Department's [REDACTED] 2022 *Notice of Action* stated that the reason for the denial of the [REDACTED] 2021 HUSKY-C Medicaid application was that the Appellant had not returned all of the required proofs by the Department's deadline. (Department Exhibit 5)
14. Connecticut General Statutes § 17b-61 (a) provides: "The Commissioner of Social Services or the commissioner's designated hearing officer shall ordinarily render a final decision not later than ninety days after the date the commissioner receives a request for a fair hearing pursuant to section 17b-60..." On [REDACTED] 2022, the OLCRAH received the Appellant's emailed hearing request. This decision would be due no later than [REDACTED] 2022. This decision is timely.

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes in part designates the Department of Social Services as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.

"The Commissioner of Social Services may make such regulations as are necessary to administer the medical assistance program...." Conn. Gen. Stat. § 17b-262.

"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)).

The Department has the authority under statute to administer the Medicaid program.

2. Section 17b-80 (a) of the Connecticut General Statutes provides in part that "[t]he commissioner, upon receipt of an application for aid, shall promptly and with due diligence make an investigation, such investigation to be completed within forty-five days after receipt of the application..." and "[t]he commissioner, ... , shall in determining need, take into consideration any available income and resources of the individual claiming assistance...."

"Prior to making an eligibility determination, the Department conducts a thorough investigation of all circumstances relating to eligibility and the amount of benefits." Uniform Policy Manual ("UPM") § 1505.40 A.1.

The Department had the authority under Conn. Gen. Stat. § 17b-80 (a) and UPM § 1505.40 A.1. to review the Appellant's circumstances to determine whether her counted assets were within the HUSKY-C Medicaid program's limits.

3. The asset limit for the HUSKY-C Medicaid program for an individual is \$1,600.00. UPM § 4005.10 A.2.

As one of the conditions for participation in the HUSKY-C Medicaid program, the Appellant's counted assets could not exceed \$1,600.00.

4. "If the assistance unit is the record owner of an asset, the unit is considered the legal owner unless it establishes otherwise, with clear and convincing evidence." UPM § 4010.05 A.1.

"If it is established to the Department's satisfaction that the legal owner and the record owner of an asset are two different persons, the Department considers the asset the property of the legal owner." UPM § 4010.05 A.2.

The Appellant is not the legal owner of [REDACTED] or [REDACTED]

5. "Income Versus Assets. Money which is received as income during a month and deposited into an account during the month is not considered an asset for that month, unless the source of the money is: 1. an income tax refund; or 2. cash received upon the transfer or sale of property; or 3. a security deposit returned by the landlord." UPM § 4030.05 C.

For the purposes of the HUSKY-C Medicaid program, the Appellant's available assets equaled \$1,255.45 on [REDACTED] 2021, i.e., \$2,049.45 minus her \$794.00 SSI deposit in [REDACTED] 2021.

6. "The assistance unit must supply the Department, in an accurate and timely manner as defined by the Department, all pertinent information and verification which the Department requires to determine eligibility and calculate the amount of benefits (cross reference: 1555)." UPM § 1010.05 A.1.

The Appellant's submission of the [REDACTED] 2021 correspondence by the CMHA bookkeeper and ledger was timely, as it was provided to the Department prior to the expiration of its [REDACTED] 2021 deadline.

7. "The applicant's failure to provide required verification by the processing date causes: (1) one or more members of the assistance unit to be ineligible if the unverified circumstance is a condition of eligibility...." UPM § 1505.40 B.1.c.

"The Department may complete the eligibility determination at any time during the application process when adequate information exists to determine ineligibility because one or more eligibility requirements are not satisfied." UPM § 1505.40 A.4.d.

The Department incorrectly determined that the Appellant had failed to submit verification by [REDACTED] 2021.

The Department incorrectly denied the Appellant's [REDACTED] 2021 HUSKY-C Medicaid application.

DISCUSSION

[REDACTED] is the legal owner of [REDACTED] or [REDACTED] which are collective accounts in which the Appellant's Social Security benefits—and the

income of other individuals for whom [REDACTED] is representative payee—is deposited. [REDACTED] pays the Appellant's rent and utilities—as well as the living expenses of other individuals for whom [REDACTED] is representative payee—with checks from these accounts.

The Appellant's apportioned share of these collective accounts is a bookkeeping matter under the purview of [REDACTED] in its administration of these bank accounts for which it is the legal owner. The Appellant's apportioned share—once again, a bookkeeping matter involving the reconciling of internal accounts—would more appropriately be considered by the Department to be residual “cash on hand” held by [REDACTED] on her behalf.

After deducting the Appellant's gross SSI benefit, as permitted by UPM § 4030.05 C., the Appellant's counted assets as of [REDACTED] 2021 equaled \$1,255.45.

DECISION

The Appellant's appeal is GRANTED.

ORDER

1. The Department will rescreen the Appellant's HUSKY-C Medicaid application effective the original application date of [REDACTED] 2021. The Department will update its records to show that the Appellant is not the legal owner of [REDACTED] or [REDACTED].
2. For the purposes of the HUSKY-C Medicaid program, the Appellant's counted assets from apportionment equaled \$1,255.45 on [REDACTED] 2021.
3. Provided all factors of eligibility are met, the Department will grant the Appellant's [REDACTED] 2021 HUSKY-C Medicaid application.
4. Within 14 calendar days of the date of this Decision, or [REDACTED] 2022, documentation of compliance with this Order is due to the undersigned.

Eva Tar-electronic signature
Eva Tar
Hearing Officer

Cc: Jerrett Wyant, DSS-New Britain
Patricia Ostroski, DSS-New Britain

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.