

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 # 195024

NOTICE OF DECISION

PARTY

■■■■
■■■■
■■■■

PROCEDURAL BACKGROUND

On ■■■■ 2022, the Department of Social Services (the "Department") sent ■■■■ (the "Appellant") a Notice of Action ("NOA") denying his application for Medicaid under the Husky C – Aged, Blind, and Disabled Program ("Husky C") effective ■■■■ 2022.

On ■■■■ 2022, the Appellant requested an administrative hearing to contest the Department's decision to deny such benefits. Due to COVID-19 concerns, the Appellant requested the hearing be held via teleconference.

On ■■■■ 2022, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ■■■■ 2022 via teleconference.

On ■■■■ 2022, 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 called in for the hearing:

■■■■ Appellant
Eric Reynolds, Department Representative
Lisa Nyren, Fair Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's [REDACTED] [REDACTED] 2022 decision to deny the Appellant's [REDACTED] [REDACTED] 2022 application for Medicaid under the Husky C program was correct.

FINDINGS OF FACT

1. On [REDACTED] [REDACTED] 2022, the Appellant entered the United States from India. (Exhibit 3: SAVE Response and Appellant's Testimony)
2. On [REDACTED] [REDACTED] 2022, the Appellant received Lawful Permanent Resident-Employment Authorized status from the United States Citizenship and Immigration Services ("USCIS"). The Appellant's daughter sponsored the Appellant's entry into the United States. (Exhibit 3: SAVE Response and Appellant's Testimony)
3. The Appellant is [REDACTED]-[REDACTED] ([REDACTED] years old born on [REDACTED] [REDACTED] [REDACTED] (Exhibit 1: Application, Exhibit 3: SAVE Response, and Appellant's Testimony)
4. On [REDACTED] [REDACTED] 2022, the Department received an online application from the Appellant requesting medical assistance under the Husky C program. (Exhibit 1: Application)
5. On [REDACTED] [REDACTED] 2022, the Department determined the Appellant failed to meet the non-citizenship criteria to qualify for medical coverage under Husky C because the Appellant does not have a military connection such as a veteran or active duty personnel and eligible dependents, failed to meet the five-year residency requirement for lawful permanent residents, entered the United States after [REDACTED] [REDACTED] 1996, and does not receive Supplement Security Income ("SSI"). (Department Representative's Testimony)
6. The Appellant does not have a military connection, has not lived in the United States for five years, and does not receive SSI. (Exhibit 1: Application and Appellant's Testimony)
7. On [REDACTED] [REDACTED] 2022, the Department issued the Appellant a notice of action informing him that his application for medical coverage under the Husky C program was denied effective [REDACTED] [REDACTED] 2022 for the following reasons: No household members are eligible for this program, does not meet program requirements, [and] does not meet the requirements to qualify as an eligible non-citizen. (Exhibit 2: Notice of Action)

8. The Appellant has never received immigration status as a conditional entrant, parolee, asylee, refugee, Cuban/Haitian entrant, Amerasian immigrant, Veteran, victim of human trafficking, Iraqi/Afghan Special Immigrant, Hmong/Highland Laotian Tribe, or a person whose deportation has been withheld. (Appellant's Testimony)
9. 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] [REDACTED] 2022. Therefore, this decision is due not later than [REDACTED] [REDACTED] 2022.

CONCLUSIONS OF LAW

1. Section 17b-2(6) of the Connecticut General Statutes 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 be the sole agency to determine eligibility for assistance and services under programs operated and administered by said department." Conn. Gen. Stat. § 17b-261b
3. 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))
4. Section 3005 of the Uniform Policy Manual ("UPM") provides as follows:

An individual must be either a citizen or an eligible non-citizen in order to receive benefits from any program. This chapter describes those individuals who are citizens and eligible non-citizens.

Only eligibility factors in relation to citizenship or non-citizen status are in this chapter. For the treatment of income and assets of ineligible non-citizens and sponsored non-citizens refer to sections 5000 Treatment of Income and 4000 Treatment of Assets.

"In order to receive benefits from any assistance program an individual must be either a citizen or an eligible non-citizen." UPM § 3005.05
5. Department policy provides as follows:

An eligible non-citizen is one who arrives in the U.S. on or after August 22, 1996 and:

1. Is admitted to the U.S. as a refugee under section 207 of the Immigration and Nationality Act; or
2. Is granted asylum under section 208 of such act; or
3. Whose deportation is being withheld under section 243(h) of such act (as in effect immediately before the effective date of section 307 of division C of Public Law 104-208) or section 241(b)(3) of such act (as amended by section 305(a) of division C of Public Law 104-208); or
4. Is lawfully residing in the state and is:
 - a. A veteran (as defined in section 101, 1101, or 1301, or as described in section 107 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage and who fulfills the minimum active-duty service requirements of section 5303A(d) of title 38 U.S.C.; or
 - b. On active duty (other than active duty for training) in the Armed Forces of the United States; or
 - c. The spouse of unmarried dependent child of an individual described in subparagraph a or b or the unremarried surviving spouse of a deceased individual described in subparagraph a or b if the marriage fulfills the requirements of section 1304 of title 38 U.S.C.; or
5. Is granted status as a Cuban and Haitian entrant under section 501(e) of the Refugee Education Assistance Act of 1980; or
6. Is admitted to the U.S. as an Amerasian immigrant pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101 (e) of Public Law 100-202 and amended by the 9th proviso under MIGRATION AND REFUGEE ASSISTANCE in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, Public Law 100-461, as amended); or
7. Is an American Indian born in Canada to whom the provisions of section 289 of the Immigration and Nationality Act apply; or
8. Is a member of an Indian tribe under section 4(e) of the Indian Self-Determination and Education Assistance Act; or
9. Is receiving SSI; or
10. Has lawfully resided in the U.S. for at least five years and:
 - a. Is lawfully admitted to the U.S. for permanent residence under the Immigration and Nationality Act; or
 - b. Is paroled into the U.S. under section 212(d) of such act for a period of at least one year; or
 - c. Is granted conditional entry pursuant to section 203 (a)(7) of such act as in effect prior to April 1, 1980; or
 - d. Has been battered or subjected to extreme cruelty in the U.S. by a spouse or parent, or by a member of the spouse or parent's family

living with the non-citizen and the spouse or parent allowed such battery or cruelty to occur, but only if:

1. The Department determines that the battery or cruelty has contributed to the need for medical assistance; and
 2. The non-citizen has been approved or has an application pending with the INS under which he or she appears to qualify for:
 - a. Status as a spouse or child of a U.S. citizen pursuant to clause (ii), (iii) or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act; or
 - b. Classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B) of such act; or
 - c. Suspension of deportation and adjustment of status pursuant to section 244(a)(3) of such act; or
 - d. Status as a spouse or child of a U.S. citizen pursuant to clause (i) of section 204(a)(1)(A) of such act, or classification pursuant to clause (i) of section 204(a)(1)(B) of such act; and
 3. The individual responsible for such battery or cruelty is not presently residing with the person subjected to such battery or cruelty; or
 - e. Is a non-citizen whose child has been battered or subjected to extreme cruelty in the U.S. by a spouse or parent of the non-citizen (without the active participation of the non-citizen in the battery or cruelty), or by a member of the spouse or parent's family living with the non-citizen and the spouse or parent allowed such battery or cruelty to occur, but only if the criteria in subparagraph d (1), (2) and (3) above are met; or
 - f. Is a non-citizen child living with a parent who has been battered or subjected to extreme cruelty in the U.S. by that parent's spouse or by a member of the spouse's family living with the parent and the spouse allowed such battery or cruelty to occur, but only if the criteria in subparagraph d (1), (2) and (3) above are met; or
11. Is lawfully residing in the United States and who was a member of a Hmong or Highland Laotian Tribe at the time that tribe rendered assistance to United States personnel during the Viet Nam era. The individual's spouse, surviving spouse and unmarried dependent children are also eligible.

UPM § 3005.08(B)

The Department correctly determined the Appellant arrived in the United States after [REDACTED] 1996. The Department correctly determined the Appellant ineligible for medical coverage under the Husky C program because he does not meet the non-citizen criteria to qualify him for medical coverage under the Husky C program. Although the Appellant was lawfully admitted to the United States with permanent residency status on [REDACTED] 2022, he has not

resided in the United States for at least five years and therefore ineligible for medical coverage under Medicaid.

On [REDACTED] [REDACTED] 2022, the Department correctly denied the Appellant's [REDACTED] [REDACTED] 2022 application for medical coverage under the Husky C program effective [REDACTED] [REDACTED] 2022 for the reasons does not meet the requirements to qualify as an eligible non-citizen, no household members are eligible for this program and does not meet program requirements.

DECISION

The Appellant's appeal is denied.

Lisa A. Nyren
Lisa A. Nyren
Fair Hearing Officer

CC: Tim Latifi, SSOM RO #30
Robert Stewart, SSOM RO #30
Eric Reynolds, 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.