

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

██████████, 2023  
Signature Confirmation

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

**NOTICE OF DECISION**

**PARTY**

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████████████████████  
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**PROCEDURAL BACKGROUND**

On ██████████, 2022, the Department of Social Services (the “Department”) sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) denying Medicaid benefits under the HUSKY C - Home and Community Based Services (“HCBS”) because he does not meet the program requirements.

On ██████████, 2022, the Appellant requested an administrative hearing because he disagreed with the Department’s decision to deny the Medicaid benefits.

On ██████████, 2022, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████, 2023.

On ██████████, 2023, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-184, inclusive, of the Connecticut General Statutes, the OLCRAH held an administrative hearing. The following individuals were present at the hearing:

██████████, Appellant’s Representative  
Amanda Cunningham, Department’s Representative  
Joseph Davey, Administrative Hearing Officer

The Appellant did not attend the hearing; he was represented by his Authorized Representative.

### **STATEMENT OF THE ISSUE**

The issue is whether the Department correctly denied the Appellant's application for Medicaid benefits under the HCBS program.

### **FINDINGS OF FACT**

1. On [REDACTED], 2022, the Appellant submitted an online application for benefits ("ONAP") requesting medical benefits and home care for the Appellant. (Exhibit 4: Online application dated [REDACTED])
2. The Appellant was [REDACTED] ([REDACTED]) years old at the time of application [D.O.B. [REDACTED]].] (Exhibit 4)
3. The Appellant was diagnosed with autism at five years of age. (Appellant's Representative's testimony)
4. The Appellant receives \$941.00 per month in Supplemental Security Income ("SSI") benefits. (Exhibit 5: Income and Asset screen printouts)
5. On [REDACTED] and [REDACTED] 2022, the Department sent verification requests to the Acquired Brain Injury ("ABI"), Personal Care Assistance ("PCA"), Mental Health, Autism, and Department of Developmental Services ("DDS") Waivers to confirm if the Appellant was on their waitlists. (Exhibit 3: Copy of email to waiver liaisons, Department's Testimony)
6. The Appellant was not known to, or on the waitlist for, the ABI, PCA, Mental Health, or Autism waivers as of [REDACTED], 2022. The Appellant was known to DDS but was not ready to be waived at that time. (Exhibit 3, Department's testimony)
7. On [REDACTED], 2022, the Department again emailed DDS to inquire if the Appellant's status had changed. DDS responded that the Appellant's status had not changed, and he was not ready to be waived. (Exhibit 1: Case notes dated 1 [REDACTED], Exhibit 3, Department's testimony)
8. The Appellant is not currently known to or on the waitlist for the ABI, PCA, Mental Health, or Autism waivers. (Department's testimony, Hearing Record)
9. The Appellant is not currently eligible for the Connecticut Home Care Program for Elders ("CHCPE") waiver program as he does not meet the minimum age requirement of 65 years. (Department's testimony, Hearing Record)

10. On [REDACTED], 2022, the Department determined that the Appellant was not eligible for benefits under the Medicaid HCBS program because he is less than 65 years old and is not known to, or on the waitlist for, any waiver programs offered by the Department. (Hearing Record)
11. On [REDACTED], 2022, the Department issued a NOA denying the Appellant's application for HCBS benefits because "no household members are eligible for this program" and he "does not meet program requirements." (Exhibit 3: Notice of Action dated [REDACTED])

The issuance of this decision is timely under Connecticut General Statutes ("Conn. Gen. Stat.") §17b-61(a), which requires that a decision be issued within [REDACTED] days of the request for an administrative hearing. The Appellant requested an administrative hearing on [REDACTED], 2022. The decision is, therefore, due no later than [REDACTED], 2023. (Hearing Record)

### **CONCLUSIONS OF LAW**

1. Section 17b-260 of the Connecticut General Statutes provides for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.
2. "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)).
3. Uniform Policy Manual ("UPM") § 2540.92(A) provides a coverage group description for Individuals Receiving Home and Community Based Services (W01). 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 such services, require care in an LTCF.
4. UPM § 2540.92(B) provides that individuals qualify for Medicaid as categorically needy for as long as they meet the conditions above and receive home and community-based services under a waiver.

**The Department correctly determined that the Appellant does not qualify for any waiver program approved by the Centers for Medicare and Medicaid Services and does not meet the criteria for HCBS program.**

5. UPM § 8040 provides that the Connecticut Home Care Program of Elders provides an alternative to the elderly individual who is inappropriately institutionalized or at risk of

institutionalization as long as the individual is not taking an unacceptable risk by putting his or her life and health and that of others in immediate jeopardy.

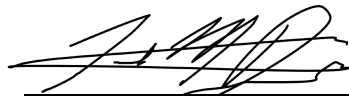
6. UPM § 8040.20(A)(1) provides that the individual must be 65 years of age or older to meet the categorical eligibility requirement of the Connecticut Home Care Program for Elders (“CHCPE”).

**The Department correctly determined that the Appellant does not meet the age requirement for the CHCPE.**

**The Department correctly denied the Appellant’s [REDACTED], 2022, application for Medicaid under the HCBS program because the Appellant does not meet the program requirements.**

### **DECISION**

The Appellant’s appeal is **DENIED**.



Joseph Davey  
Administrative Hearing Officer

CC: Amanda Cunningham, Eligibility Services Specialist, DSS, Hartford Regional Office  
Jennifer Cavallaro, DSS, Hartford Central Office  
Amy Dumont, DSS, Hartford Central Office  
hearings.commops@ct.gov

### **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 06105-3725.

### **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.