

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

██████████
██████████
REQUEST# 209673

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████, 2023, the Department of Social Services (the "Department") sent ██████████ (the "Appellant"), a Notice of Action ("NOA") stating that his Husky C will be discontinued effective ██████████, 2023, due to excess assets.

On ██████████, 2023, the Appellant requested an administrative hearing to contest the discontinuance of his Husky C.

On ██████████, 2023, 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 4-189 inclusive, of the Connecticut General Statutes, OLCRAH held an in-person administrative hearing. The following individuals participated in the hearing:

██████████, Appellant
██████████, Appellant's Spouse
██████████, Appellant's Representative
Carmen Ferrer, Department's Representative
Melissa Prisavage, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly discontinued the Appellant's Husky C effective [REDACTED] 2023.

FINDINGS OF FACT

1. The Appellant is a Legal Permanent Resident ("LPR") with an entry date of [REDACTED] 2016, and his daughter, [REDACTED], is his sponsor (the "sponsor"). (Exhibit 8: Copy of LPR card, Exhibit 9: SAVE Results, Department's Testimony, Appellant's Representative's Testimony)
2. The Appellant lives with his spouse in the home of his sponsor and his sponsor's family. (Appellant's Representative's Testimony)
3. On [REDACTED] 2022, the Appellant submitted a completed W-1ER Renewal form to the Department for his Husky C Medicaid benefits. (Exhibit 1: W-1ER Notice of Renewal of Eligibility)
4. On [REDACTED], 2022, the Department issued the Appellant a Proofs We Need form ("W-1348") requesting form W-727, Sponsor of Non-Citizens Information Sheet, and proof of the sponsor's income and assets. The notice provided a due date of [REDACTED] 2022. (Exhibit 5: W-1348)
5. On [REDACTED], 2023, the Department obtained the Appellant's Sponsor's wages from Theworknumber and assets from the Asset Verification System ("AVS") and updated the information in the Appellant's case. The Department issued a NOA to the Appellant indicating that Husky C will be discontinued effective [REDACTED] 2023, due to failure to provide requested information and excess assets. (Exhibit 13: Case Notes, Exhibit 6: NOA)
6. The Department determined that the Appellant's Sponsor's assets and income must be counted, as the Appellant and his spouse live with their sponsor and the sponsor provides free room and board to the Appellant and his spouse. (Exhibit 9: Letters from Sponsor, Department's Testimony)
7. The Department determined that the deemed amount of the Appellant's Sponsor's Assets (Money Market Account \$14,225.64 + Checking Account \$3,875.07 = \$18,100.71 – Deemed Asset Reduction \$1,500.00 = \$16,600.71) exceeds the asset limit for Husky C of \$2,400.00 for a household of two people. (Exhibit 15: IMPACT Assets Test Page)
8. 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], 2023. Therefore, this decision is due no later than [REDACTED], 2023.

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 pursuant to Title XIX of the Social Security Act.
2. Regulations of Connecticut State Agencies (Regs., Conn. State Agencies) § 17b-198-2 provides that "AABD" means the state supplement to the aged, blind or disabled administered pursuant to section 17b-600 of the Connecticut General Statutes.
3. "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)).
4. UPM § 2015.05 provides that the assistance unit in AABD and MAABD consists of only one member. In these programs, each individual is a separate assistance unit. An eligible spouse in the home applies for and receives assistance as a separate assistance unit. Any other member of the household who meets the eligibility requirements for the program is also a separate assistance unit of one.

The Department correctly determined that the Appellant is an assistance unit of one.

5. UPM § 4005.10 (A)(2)(a) provides that the asset limits for the Department's programs are as follows. AABD and MAABD – Categorically and Medically Needy. The asset limit is \$2,400 for a needs group of two.

The Department correctly determined that the Appellant and her spouse are a needs group of two.

6. UPM § 1015.10 (A) provides that 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.

The Department correctly sent a W-1348 Request for Proofs We Need form requesting verifications necessary to determine Husky C eligibility and correctly allowed 10 days for completion.

7. UPM § 4005.05(B)(1) provides for Assets Counted Toward the Asset Limit. The Department counts the assistance unit's equity in an asset toward the asset limit if the asset is not excluded by state or federal law and is either: a. available to the unit; or b. deemed available to the unit.
8. UPM § 4025.45 (A)(1) provides that the Department deems the assets of a non-citizen's sponsor and the sponsor's spouse, if the spouse signed the Revised Affidavit of Support (I-864) or the Contract Between Sponsor and Household Member (I-864A), to the non-citizen under the following circumstances:
 - a. the sponsor and the sponsor's spouse are not members of the same assistance unit as the non-citizen; and
 - b. the non-citizen must have a sponsor under USCIS rules; and
 - c. the sponsor and the sponsor's spouse have executed an Affidavit of Support (I-864) or the Contract Between Sponsor and Household Member (I-864A) pursuant to 8 U.S.C. § 1183a (a) (section 423 of the Personal Responsibility and Work Opportunity Act of 1996, amending Title II of the Immigration and Nationality Act by adding section 213A) on behalf of the non-citizen; and
 - d. the sponsor is an individual, rather than an institution; and
 - e. none of the exceptions set forth in Paragraph C of this section are applicable.

The Department correctly determined that the assets of the Appellant's sponsor must be deemed to the Appellant.

9. UPM § 4025.45 (B) provides that the Department: (1) excludes the assets of the sponsor and the sponsor's spouse from consideration in the same manner that the assets of assistance unit members would be excluded; (2) reduces the value of the deemed assets by \$1500.00; (3) prorates this reduced amount among the non-citizens if the sponsor is also sponsoring other non-citizens; (4) deems the counted assets to the non-citizen; and (4) adds the resulting value of the deemed assets to the value of the non-citizen's own assets to determine the non-citizen's eligibility.

The Department correctly determined that the Appellant's countable assets of \$16,600.71 exceed the Husky C asset limit of \$2,400.00 for a needs group of two.

DECISION

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

Melissa Prisavage

Melissa Prisavage
Fair Hearing Officer

CC: Shahar Thadal, DSS Operations Manager, Stamford Regional Office
Carmen Ferrer, Department Representative, Stamford Regional 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.