

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 # 209883

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████ 2023, the Department of Social Services (the “Department”) issued a Notice of Action (“NOA”) to ██████████ (the “Appellant”), discontinuing her HUSKY C-Medically Needy, for the Aged, Blind, and Disabled (“HUSKY C”) Medicaid coverage effective ██████████ 2023.

On ██████████ ██████████ 2023, the Appellant requested an administrative to contest the discontinuance of her HUSKY C.

On ██████████ 2023, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling a telephonic 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 (“Conn. Gen. Stats.”), OLCRAH held an administrative hearing. The following individuals participated in the hearing:

██████████, Appellant
██████████, Appellant’s Witness
Christopher Filek, Department’s Representative

Carla Hardy, 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, due to excess assets.

FINDINGS OF FACT

1. The Appellant applied for HUSKY C sometime in 2020 or 2021. She reported ownership of a home located in [REDACTED]. She was granted HUSKY C coverage. (Witness' Testimony; Department's Testimony, Hearing Record)
2. The Department coded the Appellant's home in [REDACTED] as home property when the Appellant first applied for HUSKY C. (Department's Testimony)
3. On [REDACTED] 2022, the Department received the Appellant's Eligibility Renewal Document. The Appellant reported she owned a [REDACTED] bank account and her home in [REDACTED]. She also reported a monthly pension of \$400.00. She is 73 years old (DOB [REDACTED] 49). (Exhibit 8: Eligibility Renewal Document, [REDACTED]/23)
4. The Appellant's home is located in [REDACTED]. (Witness' Testimony)
5. The Department has always known that the Appellant owned property in [REDACTED] (Department's Testimony)
6. The Appellant's home in [REDACTED] is a two-bedroom apartment. (Appellant's Testimony)
7. The Appellant is the only person who lives in the home. She goes to [REDACTED] for two weeks to three months out of the year. (Testimony)
8. On [REDACTED], 2023, the Department updated the Appellant's record to show that she had a \$1,372.51 bank balance and land that was purchased on [REDACTED] 2019, for \$119,000.00. (Exhibit 1: Case Notes)
9. On [REDACTED] 2023, the Department discontinued the HUSKY C effective [REDACTED] 2023, because the value of her assets exceeded the amount allowed by the program. (Exhibit 2A: NOA, [REDACTED]/23)
10. The asset limit for HUSKY C is \$1,600.00. (Department's Testimony)
11. On [REDACTED] 2023, the Appellant's Authorized Representative brought verification that the Appellant's home in [REDACTED] has a \$54,589.14 value. (Exhibit 1; Exhibit 4: Property Valuation)

12. The value of the Appellant's home in [REDACTED] is valued in United States dollars. (Witness' Testimony)
13. On [REDACTED] 2023, the Department updated the Appellant's record with the corrected home value and recalculated the Appellant's eligibility for HUSKY C. The Department calculated the Appellant's assets exceed the limit for the program. (Exhibit 2B: NOA, [REDACTED]/23)
14. 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] 2023. Therefore, this decision is due no later than [REDACTED] 2023. (Hearing Record)

CONCLUSIONS OF LAW

1. Section 17b-260 of the Connecticut General Statutes ("Conn. Gen. Stat.") authorizes the Commissioner of the Department of Social Services to administer the Medicaid program.

The Department has the authority to administer and determine eligibility for the HUSKY C Medicaid program.

2. Conn. Gen. Stats. Section 17b-1 provides (a) "There is established a Department of Social Services. The department head shall be the Commissioner of Social Services, who shall be appointed by the Governor in accordance with the provisions of sections 4-5 to 4-8, inclusive, with the powers and duties therein prescribed. (b) The Department of Social Services shall constitute a successor department to the Department of Income Maintenance and the Department of Human Resources in accordance with the provisions of sections 4-38d and 4-39.
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. Uniform Policy Manual ("UPM") § 2525.15(B) provides to meet the age requirement of State Supplement and related Medicaid based on old age, the individual must be sixty-five (65) years of age or older.

The Department correctly determined the Appellant met the age requirement of the MAABD Medicaid program.

5. UPM § 4005.05(B)(1) provides that 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 assistance unit.

UPM § 4030 provides that the Department evaluates all types of assets available to the assistance unit when determining the unit's eligibility for benefits.

UPM § 4005.05(B)(2) provides that under all programs except Food Stamps, the Department considers an asset available when actually available to the individual or when the individual has the legal right, authority or power to obtain the asset, or to have it applied for, his or her general or medical support.

The Department correctly determined that the Appellant has access to her home's equity in [REDACTED]

6. UPM § 4005.05(D)(2) provides that an assistance unit is not eligible for benefits under a particular program if the unit's equity in counted assets exceeds the asset limit for the particular program.
7. UPM § 4005.10(A)(2)(a) provides that the asset limit for the AABD and MAABD needs group of one is \$1,600.00.
8. UPM § 4030.20(A)(1) provides home property owned by a member of the assistance unit is not counted in the determination of the unit's eligibility for assistance as long as the unit uses the property as its principal residence. Subject to the provisions of paragraph E below, certain individuals with substantial home equity may not be eligible for payment of nursing facility and other long-term care services under the Medicaid program. (2) Home property consists of: (a) the home itself which the assistance unit uses as principal residence, the surrounding property which is not separated from the home by intervening property owned by others, and any related outbuildings used in the operation of the home; or (b) life use of the property the unit uses as its principal residence.

The Department correctly determined the Appellant's home in [REDACTED] is not her primary residence.

The Department correctly determined the Appellant's home in [REDACTED] is not home property.

9. UPM § 4000.01 provides that non-home property is real property which a person owns but is not using as principal residence.

UPM § 4030.65(C) provides for non-home property in AABD and Community MAABD. (1) Non-home property of any type is excluded as long as the assistance unit is making a bona fide effort to sell it.

The Department correctly determined the Appellant's home in [REDACTED] is non-home property.

The Department correctly determined the Appellant's home in [REDACTED] is not excluded.

On [REDACTED] 2023, the Department correctly calculated the Appellant's counted assets exceeded the \$1,600.00 limit and discontinued the Appellant's HUSKY-C effective [REDACTED] 2023.

DECISION

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

_____*Carla Hardy*_____
Carla Hardy
Hearing Officer

Pc: Brian Sexton, Operations Manager, Christopher Filek, Fair Hearings Liaison,
Department of Social Services, Middletown 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.