

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

██████████ 2023
Signature confirmation

Case: ██████████
Client: ██████████
Request: 210875

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2022, the Department of Social Services (the “Department”) issued a *Notice of Action* to ██████████ (the “Appellant”) denying her HUSKY-C Medicaid for the Aged, Blind, and Disabled (“HUSKY-C”) coverage.

On or around ██████████, 2023, the Department subsequently rescreened the Appellant’s HUSKY-C case but did not grant or deny the case at that time, choosing to leave the case pending.

On ██████████ 2023 the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) received the Appellant’s ██████████ 2023 postmarked hearing request.

On ██████████ 2023, the OLCRAH scheduled 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, the OLCRAH held an administrative hearing. The following individuals participated by telephone conferencing:

██████████, Appellant
Chris Filek, Department Representative
Eva Tar, Hearing Officer

On ██████████ 2023, the hearing record closed.

STATEMENT OF ISSUE

The issue is whether the Department correctly determined that Appellant is ineligible for HUSKY-C coverage.

FINDINGS OF FACT

1. The Appellant is ■ years old. (Appellant Testimony)
2. The Appellant receives Social Security Disability benefits. (Appellant Testimony)
3. The Appellant is the sole owner of two ■ annuities ending in (■), from initial premium of \$81,599.18, issued ■ 16) and (■, from initial premium of \$10,000.00, issued ■ 17) (“annuities”). (Dept. Exhibit 1: ■ documents, varying dates)
4. On ■, 2022, annuity (■) had a balance of \$98,916.01 and an income date of ■ 2057. (Dept. Exhibit 7: Correspondence ■ 2022)
5. On ■ 2022, annuity (■) had a balance of \$20,619.77 and an income date of ■ 2058. (Dept. Exhibit 7)
6. The Appellant has no barriers or limitations to accessing the two annuities; there are no liens or other encumbrance on the annuities. (Appellant Testimony) (Dept. Exhibit 1)
7. The annuities include the following language: “At or before the Income Date, the Owner may withdraw all or part of the amounts under this Contract by informing the Company at the Service Center... Premiums withdrawn from the Contract Value may be subject to a Withdrawal Charge. In addition to a Withdrawal Charge, a withdrawal from a Fixed Account Option may also incur a Market Value Adjustment.” The annuities further include language as to Additional Free Withdrawals. (Dept. Exhibit 1)
8. As of ■, 2023, the total withdrawals on annuity (■) equaled \$5,936.48, which were non-reportable and non-taxable transfers to another individual retirement account; the Appellant received no income from these withdrawals. (Department Exhibit 1)
9. The Appellant’s medical coverage under the HUSKY-C Working Disabled coverage group ended effective ■, 2022, as the Appellant’s one-year extension under that coverage group had ended. (Department Representative Testimony) (Dept. Exhibit 3: *Notices of Action*, varying dates)
10. On ■, 2022, the Department evaluated the Appellant’s eligibility to participate in the regular HUSKY-C coverage group effective ■ 2022. (Dept. Exhibit 2: Case Notes, varying dates) (Dept. Exhibit 3)
11. On ■, 2022, the Department issued a *Notice of Action* denying the Appellant’s participation in the HUSKY-C coverage group. (Dept. Exhibit 3)

12. On or around ██████████ 2023, the Department rescreened the Appellant's HUSKY-C case. (Dept. Exhibit 2)
13. On ██████████ 2023, the Department again denied the Appellant's HUSKY-C case. (Department Representative Testimony)
14. The HUSKY-C Medicaid program has a \$1,600.00 asset limit for an individual. (Department Representative Testimony)
15. 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 ██████████ 2023, the OLCRAH received the Appellant's ██████████ 2023 postmarked hearing request. This hearing decision would have become due by no later than ██████████ 2023. This final decision is timely.

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes designates the Department as the state agency for the administration of so identified state and federal programs.

"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 to administer the Medicaid program in Connecticut and to make necessary regulation.

2. Section 4030.47 of the Department's Uniform Policy Manual provides:
Annuities are evaluated as both an asset representing an investment and as income that the beneficiary may receive on a regular basis (cross reference 5050, Treatment of Specific Types). The assistance unit's equity in an annuity is a counted asset to the extent that the assistance unit can sell or otherwise obtain the entire amount of equity in the investment. Any payments received from an annuity are considered income. Additionally, the right to receive income from an annuity is regarded as an available asset, whether or not the annuity is assignable.
UPM § 4030.47. (emphasis added)

For the purposes of the HUSKY-C program, the Appellant's two annuities are counted assets which have the potential to generate income.

3. Uniform Policy Manual ("UPM") § 4000.01 provides in part the following definition: "Asset Limit. The asset limit is the maximum amount of equity in counted assets which an assistance unit may have and still be eligible for a particular program administered by the Department."

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

As a condition of participation in the HUSKY-C program, the Appellant's maximum amount of equity in counted assets had to be less than or equal to \$1,600.00.

4. "The Department compares the assistance unit's equity in counted assets with the program asset limit when determining whether the unit is eligible for benefits." UPM § 4005.05 D.1.

"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, unless the assistance unit is categorically eligible for the program and the asset limit requirement does not apply (cross reference: Categorical Eligibility Requirements)." UPM § 4005.05 D.2.

It is reasonable to conclude that the Appellant's equity in the annuities—or \$119,535.78 minus potential withdrawal fees for accessing the annuities prior to their respective income dates—exceeds \$1,600.00, based on the initial premium amounts, the annuities' accrued value since inception, and the Contract language.

The Department correctly determined that the Appellant is ineligible to receive HUSKY-C coverage, as her counted assets exceeds the program's \$1,600.00 asset limit for an individual.

DECISION

The Appellant's appeal is DENIED.

Eva Tar-electronic signature
Eva Tar
Hearing Officer

cc: Chris Filek, DSS-Middletown
Brian Sexton, DSS-Middletown

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.