

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

[REDACTED] 2024

Case: [REDACTED]
Client: [REDACTED]
Request: 235633

NOTICE OF DECISION

PARTY

[REDACTED]
[REDACTED]
[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED], 2024, the Department of Social Services (the “Department”) issued a *Notice of Action* to [REDACTED] (the “Appellant”) denying her HUSKY-C/Medicaid (“HUSKY-C”) application.

On [REDACTED] 2024, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) received the Appellant’s hearing request.

On [REDACTED] 2024, the OLCRAH scheduled the administrative hearing for [REDACTED] 2024.

On [REDACTED] 2024, 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 by telephone conferencing. The following individuals participated:

[REDACTED], Appellant
Brad Wheeler, Department Representative
Eva Tar, Hearing Officer

On [REDACTED] 2024, the hearing record closed.

STATEMENT OF ISSUE

The issue is whether the Department correctly determined on [REDACTED] 2024 that Appellant was ineligible for HUSKY-C coverage.

FINDINGS OF FACT

1. The Appellant receives \$1,571.00 per month in Social Security benefits. (Dept. Exhibit 5)
2. The Appellant works at [REDACTED] for \$18.60 per hour, from 12 to 15 hours per week. (Appellant Testimony)
3. On [REDACTED] 2024, the Appellant filed an application for medical coverage with the Department. (Dept. Exhibit 1)
4. On [REDACTED] 2024, the Department issued a *Proofs We Need* in part requesting the Appellant submit by [REDACTED], 2024 verification of her most recent bank or credit union statements or letter from the banks stating the current balance. (Dept. Exhibit 2)
5. The Appellant submitted bank statements for [REDACTED] that listed one penny in a savings account [REDACTED], 24 cents in account [REDACTED], and \$2,703.22 in account [REDACTED]. (Department Representative Testimony)
6. The Appellant's Social Security benefits and her wages are direct deposited to [REDACTED]. (Dept. Exhibit 6)
7. On [REDACTED], 2024, the Department issued a *Notice of Action* denying the Appellant's participation in the HUSKY-C coverage group, citing that the value of the Appellant's assets exceeds the amount permitted by the program; the *Notice of Action* identified a balance of \$2,703.22 in a checking account. (Dept. Exhibit 3)
8. The HUSKY-C asset limit is \$1,600.00. (Department Representative Testimony) (Dept. Exhibit 4)
9. 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 [REDACTED] 2024, the OLCRAH received the Appellant's hearing request. This hearing decision would have become due by no later than [REDACTED] 2024. 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 4000 of the Department's Uniform Policy Manual ("UPM") provides: "In order to qualify for assistance, an assistance unit must meet certain financial eligibility requirements. These requirements, based on state and federal law, pertain to income and assets."

Uniform Policy Manual § 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.

3. "Income Versus Assets. *Money which is received as income during a month and deposited into an account during the month is not considered an asset for that month unless the source of the money is: 1. an income tax refund; or 2. cash received upon the transfer or sale of property; or 3. a security deposit returned by the landlord.*" UPM § 4030.05 C. (emphasis added)

"Checking Account. That part of a checking account to be considered as a counted asset during a given month is calculated by subtracting the actual amount of income the assistance unit deposits into the account that month from the highest balance in the account for that month." UPM § 4030.05 B.

The Department failed to follow the directive of UPM § 4030.05 B. when it utilized \$2,703.22, the end balance of the checking account—rather than the highest balance minus deposited income—to represent the Appellant's amount of equity in her counted assets.

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.

“At the time of application, the assistance unit is ineligible until the first day of the month in which it reduces its equity in counted assets to within the asset limit.” UPM § 4005.15 A.2.

It cannot be determined from the hearing record whether the Appellant’s assets in the relevant service months exceeded the \$1,600.00 HUSKY-C program limit.

DECISION

The Appellant’s appeal is REMANDED to the Department for further action.

ORDER

1. The Department will reopen the Appellant’s HUSKY-C application effective [REDACTED], 2024.
2. The Department will review the Appellant’s bank statements to discern how much, if any, of the Appellant’s income was deposited to her checking accounts for each of the service months from [REDACTED] 2024 forward.
3. In determining whether the Appellant’s assets were within the HUSKY-C program’s \$1,600.00 asset limit, the Department will deduct any of the Appellant’s income deposited into her checking accounts from that checking account’s highest balance in each service month.
4. The Department will take appropriate action to grant or deny the Appellant’s [REDACTED], 2024 HUSKY-C application upon the conclusion of its review.
5. Within 14 calendar days of the date of this Decision, or [REDACTED] 2024, documentation of compliance with this Order is due to the undersigned.

Eva Tar-electronic signature
Eva Tar
Hearing Officer

cc: Brad Wheeler, DSS-Norwich
Matthew Kalarickal, DSS-Norwich

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.