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

[redacted], 2025
Signature Confirmation

[redacted]
Request #: 257247

NOTICE OF DECISION

PARTY

[redacted]

[redacted]

PROCEDURAL BACKGROUND

On [redacted], 2025, the Department of Social Services (the "Department") sent [redacted] (the "Appellant") a Notice of Action ("NOA") reducing the number of Personal Care Attendant ("PCA") service hours under the Community First Choice ("CFC") program from 30 hours per week to 21.50 hours per week.

On [redacted] 2025, the Appellant requested an administrative hearing to contest the Department's decision to reduce her CFC budget and PCA service hours.

On [redacted] 2025, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for [redacted], 2025.

On [redacted] 2025, the Appellant's Attorney contacted the OLCRAH and requested that the hearing be rescheduled, which OLCRAH granted.

On [redacted] 2025, the OLCRAH issued a notice rescheduling the administrative hearing for [redacted] 2025.

On [redacted] 2025, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-184 inclusive, of the Connecticut General Statutes, OLCRAH held an in person administrative hearing.

The following individuals participated:

[redacted], Appellant
[redacted], Appellant's Legal Counsel
[redacted], Appellant's PCA
Cheri Sarno, Staff Development, CFC Assessor, Agency on Aging
Janette Steward, MSN, RN, Department's nurse consultant, CFC
Attorney Cynthia Cartier, Department's Legal Counsel
Amy MacDonough, Hearing Officer

The hearing record remained open for additional information and response from both parties. On [redacted] 2025, Attorney [redacted] provided a letter from [redacted]. On [redacted], 2025, Attorney Cartier provided wage statements for the Appellant's PCA. On [redacted] 2025, Attorney [redacted] responded to the Department's exhibits and provided the following additional exhibits: Letter from [redacted], PA, and CFC Operating Manual. On [redacted] 2025, Attorney Cartier provided a response to the information provided, as no new evidence was provided requiring response from either party, on [redacted], 2025, the record closed.

STATEMENT OF THE ISSUE

The issue is whether the Department correctly reduced the Appellant's PCA service hours under the CFC program to 21.50 effective [redacted] 2025.

FINDINGS OF FACT

1. The Appellant is [redacted] years old [Date of Birth: [redacted]] and divorced. She resides alone in her community home. The Appellant is a Medicaid recipient and has been granted services under the CFC program to provide support for her Activities of Daily Living ("ADL"), and health related tasks through PCA services. *(Hearing Record; Exhibit 6: Universal Assessment)*

2. The Appellant's diagnoses include Epilepsy (seizure disorder), drop seizures, Fibromyalgia, spastic colon, frozen shoulder (R), baker cyst, IBS, Hypothyroid disease, Lupus, anemia, EBV and blood clots. *(Exhibit 5: Universal Assessment Outcome; Exhibit 6)*

3. The Appellant's medications include Clonazepam, Crestor, Synthroid, Topamax, Vitamin D3, Briviact, and Dicyclomine which are taken daily. The Appellant has a visiting nurse once per week for medication management. The visiting nurse administers a B12 injection once monthly. *(PCA's Testimony; Exhibit 6)*

4. The Appellant has been receiving thirty (30) PCA hours under an exception from 2018 through 2022. The Department was unclear as to how the thirty (30) hours was determined. *(CFC Assessor Testimony; Exhibit B: Hearing Decision, [redacted]/2024)*

5. On [redacted] 2023, an assessor from the Agency on Aging of South-Central Connecticut ("AASCC") requested a budget exception for the Appellant because the Universal Assessment ("UA") indicated a Level of Need of 1 and the Level of Care ("LOC") as not applicable. The worker indicated the reason for the exception as [she] does not meet LOC in UA and request to grant LOC and access services. The form indicated a requested budget of $40,743.36 and for her to continue receiving 30 PCA hours weekly for her health and safety in the community. *(Exhibit 3: Revised CFC Budget and Exception Form)*

6. On [redacted] 2024, a social worker from the AASCC, completed a face-to-face assessment with the Appellant. The comprehensive assessment included the following: (1) evaluation of physical status; (2) evaluation of mental status, and; (3) functional assessment. The worker determined the Appellant did not meet a Level of Need ("LON") of greater than 1 which is required for nursing home level of care for CFC benefits. The Appellant's CFC benefits were terminated. A hearing was held on [redacted] 2024, for the denial of CFC benefits. *(Hearing Record; Exhibit B)*

7. On [redacted] 2024, [redacted], Professor of Neurology at [redacted], provided a letter regarding the Appellant's condition and indicated "due to the medication and repetitive seizures [the Appellant] has some cognitive difficulties". *(Exhibit C: Letter from [redacted])*

8. On [redacted], 2024, the Hearing Officer ruled in the Appellant's favor and ordered the agency to complete a new assessment. *(Hearing Record; Exhibit B)*

9. On [redacted] 2025, a social worker from AASCC completed a comprehensive, face-to-face Universal Assessment ("UA") with the Appellant. The social worker determined that the Appellant's ADL needs remained the same requiring only cueing/supervision with bathing and she was independent with toileting, transferring, dressing and eating. The social worker determined a LON score of 3 based on her need for limited financial assistance, extensive medication assistance, maximum cleaning assistance, total shopping assistance, extensive meal preparation and addressing the emergency after a seizure; therefore, qualifying the Appellant for the CFC program and PCA hours. *(Hearing Record; Exhibit 5: Universal Assessment Outcome Form)*

10. The Appellant requires supervision with bathing. She has a hand bar to hold when entering and exiting the shower and has a handheld showerhead. The Appellant washes her hair in the sink with assistance from her PCA. The Appellant has pull cords in the bathroom, bedroom and living room in case of a fall. The Appellant does not use any assistive devices for mobility. *(Appellant's Testimony; PCA's Testimony)*

11. The Appellant scored a two (2) on the mini-cognition section of the UA indicating clinically important cognitive impairment likely. The assessor commented "moderately impaired- decisions consistently poor or unsafe; cues/supervision required at all times." The cognitive deficiencies are considered when determining the Appellant's LON. *(CFC Assessor's Testimony; Exhibit 6)*

12. CFC uses the following chart to determine the number of hour and budget based on the LON for a person over 17 years of age and not active on any Medicaid Waiver program:

LON	Hours of PCA per week	Monthly Budget	Annual Budget
1	13.00	$1,634.52	$19,614.19
2	17.00	$2,137.44	$25,649.33
3	**21.50**	**$2,703.24**	**$32,438.86**
4	23.50	$2,954.70	$35,456.42
5	25.75	$3,237.60	$38,851.19
6	28.75	$3,614.80	$43,377.54

(Department's Testimony; Exhibit 8: CFC Budget Categories)

13. CFC uses the following chart to determine the number of hours and budget that can be added on to the LON determination based on extensive hands-on ADL needs:

ADLs	Hours of PCA per week	Monthly Budget	Annual Budget
1	8.75	$1,100.16	$13,201.86
2	17.50	$2,200.31	$26,403.72
3	26.25	$3,300.47	$39,605.58
4	35.00	$4,400.62	$52,807.44
5	43.75	$5,500.78	$66,009.30

(Exhibit 8)

14. Based on the Department's assessment, the Appellant meets the LON of three (3) and requires extensive assistance with zero (0) of her ADL; therefore, the Department determined the Appellant qualifies for 21.50 PCA hours per week. The Department determined the Appellant's annual budget as $32,594.17. *(Exhibit 7: NOA; Exhibit 8)*

15. The Department's nurse consultant reviews each case using the UA and records to determines if the proposed hours are sufficient to meet the individual's needs. *(Nurse Consultant's Testimony)*

16. On [redacted] 2025, the Department issued the Appellant a NOA indicating her CFC budget would be reduced from $40,743.36 to $32,594.17 effective [redacted], 2025. The notice indicated the action was taken because "upon reassessment, your Level of Care has changed resulting in a new budget. You are now eligible for 21.50 PCA hours – a reduction from 30 hours provided under your prior care plan which provided a budget exception." *(Exhibit 7)*

17. The Appellant has a daughter residing in [redacted] CT; however, she does not provide informal support or assistance in the Appellant's daily care. *(Appellant's Testimony; PCA's Testimony)*

18. The issuance of this decision is timely under Connecticut General Statutes 17b-61(a), which requires that the agency issue a decision within 90 days of the request for an administrative hearing. The Appellant requested an administrative hearing on [redacted] 2025. With the 36 delay days due to the rescheduling of the hearing by the Appellant's Attorney and holding the record open for additional information and responses, this decision is due no later than [redacted] 2025.

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes provides the Department of Social Services is designated as the state agency for the administration of (6) the Medicaid program pursuant to Title XIX of the Social Security Act.

   Title 42 of the Code of Federal Regulations ("C.F.R.") Section 441.500 provides for basis and scope and states (a) Basis. This subpart implements section 1915(k) of the Act, referred to as the Community First Choice option (hereafter Community First Choice), to provide home and community-based attendant services and supports through a State plan. (b) *Scope.* Community First Choice is designed to make available home and community-based attendant services and supports to eligible individuals, as needed, to assist in accomplishing activities of daily living (ADLs), instrumental activities of daily living (IADLs), and health-related tasks through hands-on assistance, supervision, or cueing.

   42 C.F.R. § 441.515 provides that States must provide Community First Choice to individuals: (a) on a statewide basis. (b) In a manner that provides such services and supports in the most integrated setting appropriate to the individual's needs, and without regard to the individual's age, type or nature of disability, severity of disability, or the form of home and community-based attendant services and supports that the individual requires to lead an independent life.

   The Department has the authority to administer the CFC program.

2. 42 C.F.R. § 441.505 provides for definitions and states in relevant part that Activities of daily living (ADLs) means basic personal everyday activities including, but not limited to, tasks such as eating, toileting, grooming, dressing, and transferring. Instrumental activities of daily living (IADLs) mean activities related to living independently in the community, including but not limited to, meal planning and preparation, managing finances, shopping for food, clothing, and other essential items, performing essential household chores, communicating by phone or other media, and traveling around and participating in the community.

3. 42 C.F.R § 441.540(c) provides for reviewing the person-centered service plan. The State must ensure that the person-centered service plan for every individual is reviewed, and revised as appropriate, based upon the reassessment of functional need at least every 12 months, when the individual's circumstances or needs change significantly, and at the request of the individual. States must adhere to the requirements of § 441.301(c)(3), except that the references to section 1915(c) of the Act are instead references to section 1915(k) of the Act.

   Connecticut State Plan Amendment ("SPA") No. 15-012 § 1(B) provides the State determines initially, and at least annually, that individuals require the level of care provided in a hospital, nursing facility, an intermediate care facility for individuals with intellectual disabilities (ICF/IID), an institution providing psychiatric services for individuals under 21, or an institution for mental diseases for individuals age 65 and older. The institutional level of care screen is completed by staff of the Department of Social Services on each individual referred to the program. Once an individual successfully completes the screen, the Department refers the individual to contracted entities for assessment. Staff at contracted entities complete the universal assessment for each individual. The universal assessment confirms institutional level of care and individual level of need.

4. 42 C.F.R. § 441.535 provides for assessment of functional need. States must conduct a face-to-face assessment of the individual's needs, strengths, preferences, and goals for the services and supports provided under Community First Choice in accordance with the following:
   (a) States may use one or more processes and techniques to obtain information, including telemedicine, or other information technology medium, in lieu of a face-to-face assessment if the following conditions apply: (1) The health care professional(s) performing the assessment meet the provider qualifications defined by the State, including any additional qualifications or training requirements for the operation of required information technology; (2) The individual receives appropriate support during the assessment, including the use of any necessary on-site support-staff; and (3) The individual is provided the opportunity for an in-person assessment in lieu of one performed via telemedicine.
   (b) Assessment information supports the determination that an individual requires Community First Choice and also supports the development of the person-centered service plan and, if applicable, service budget.
   (c) The assessment of functional need must be conducted at least every 12 months, as needed when the individual's support needs or circumstances change significantly necessitating revisions to the person-centered service plan, and at the request of the individual.
   (d) Other requirements as determined by the Secretary.

   CT SPA No. 15-012 § 1(C) provides the Universal Assessment (UA) is a comprehensive and person-centered assessment, surveying the individual's physical, cognitive, and psychosocial functioning, and identifying risk factors, individual choices, and preferences, and the status of service needs. The UA identifies needs that are

met utilizing voluntary natural supports and state plan and waiver services, thus allowing for a comprehensive assessment, including need for social supports, and service plan. The UA documents each individual's level of need and calculates that individual's budget allocation. Individuals are actively involved in the assessment process and have the opportunity to identify goals, strengths, and needs. Individuals affirm if they would like to identify anyone to participate in the planning process.

The Department correctly completed a face-to-face assessment of the Appellant on [redacted] 2025.

5. 42 C.F.R. § 441.540(b)(5) provides for person-centered service plan and states the person-centered service plan must reflect the services and supports that are important for the individual to meet the needs identified through an assessment of functional need, as well as what is important to the individual with regard to preferences for the delivery of such services and supports. Commensurate with the level of need of the individual, and the scope of services and supports available under Community First Choice, the plan must: Reflect the services and supports (paid and unpaid) that will assist the individual to achieve identified goals, and the providers of those services and supports, including natural supports. Natural supports cannot supplant needed paid services unless the natural supports are unpaid supports that are provided voluntarily to the individual in lieu of an attendant.

6. 42 C.F.R. § 441.560(b) provides that the budget methodology set forth by the State to determine an individual's service budget amount must: (1) Be objective and evidence-based utilizing valid, reliable cost data. (2) Be applied consistently to individuals. (3) Be included in the State plan. (4) Include a calculation of the expected cost of Community First Choice services and supports, if those services and supports are not self-directed. (5) Have a process in place that describes the following: (i) Any limits the State places on Community First Choice services and supports, and the basis for the limits. (ii) Any adjustments that are allowed and the basis for the adjustments.

   42 C.F.R. § 441.560(c) provides that the State must have procedures in place that will provide safeguards to individuals when the budgeted service amount is insufficient to meet the individual's needs.

   CT SPA No. 15-012 § 5(A) provides for limits on amount, duration or scope and states the Department assigns an overall budget based on need grouping that is determined by algorithm. Natural supports are based on the individual's functional assessment, which will take into consideration the availability of natural supports. Natural supports are identified during the person-centered service planning process and utilized when available to the individual. Natural supports are defined as voluntary unpaid care provided on a regular and consistent basis by a parent, spouse, or other person.

   The Appellant lacks natural supports in the community for assistance with her ADL's, IADL's and other health related tasks.

7. 42 C.F.R. § 441.510 provides for eligibility and states to receive Community First Choice services and supports under this section, an individual must meet the following requirements:
   (a) Be eligible for medical assistance under the State plan;
   (b) As determined annually- (1) Be in an eligibility group under the State plan that includes nursing facility services; or (2) If in any eligibility group under the State plan that does not include such nursing facility services, have an income that is at or below 150 percent of the Federal poverty level (FPL). In determining whether the 150 percent of the FPL requirement is met, States must apply the same methodologies as would apply under their Medicaid State plan, including the same income disregards in accordance with section 1902(r)(2) of the Act; and,
   (c) Receive a determination, at least annually, that in the absence of the home and community-based attendant services and supports provided under this subpart, the individual would otherwise require the level of care furnished in a hospital, a nursing facility, an intermediate care facility for individuals with intellectual disabilities, an institution providing psychiatric services for individuals under age 21, or an institution for mental diseases for individuals age 65 or over, if the cost could be reimbursed under the State plan. The State administering agency may permanently waive the annual recertification requirement for an individual if: (1) It is determined that there is no reasonable expectation of improvement or significant change in the individual's condition because of the severity of a chronic condition or the degree of impairment of functional capacity; and
   (d) For purposes of meeting the criterion under paragraph (b) of this section, individuals who qualify for medical assistance under the special home and community-based waiver eligibility group defined at section 1902(a)(10)(A)(ii)(VI) of the Act must meet all section 1915(c) requirements and receive at least one home and community-based waiver service per month.
   (e) Individuals receiving services through Community First Choice will not be precluded from receiving other home and community-based long-term care services and supports through other Medicaid State plan, waiver, grant or demonstration authorities.

   CT SPA No. 15-012 § 1(B) provides the State determines initially, and at least annually, that individuals require the level of care provided in a hospital, nursing facility, an intermediate care facility for individuals with intellectual disabilities (ICF/IID), an institution providing psychiatric services for individuals under 21, or an institution for mental diseases for individuals age 65 and older. The institutional level of care screen is completed by staff of the Department of social Services on each individual referred to the program. Once an individual successfully completes the screen, the Department refers the individual to contracted entities for assessment. Staff at contracted entities complete the universal assessment foreach individual. The universal assessment confirms institutional level of care and individual level of need.

   42 C.F.R. § 441.520 provides for included services and states as follows:
   (a) If a State elects to provide Community First Choice, the State **must** provide all of the following services: (1) Assistance with ADLs, IADLs, and health-related tasks

through hands-on assistance, supervision, and/or cueing. (2) Acquisition, maintenance, and enhancement of skills necessary for the individual to accomplish ADLs, IADLs, and health-related tasks. (3) Backup systems or mechanisms to ensure continuity of services and supports, as defined in § 441.505 of this subpart. (4) Voluntary training on how to select, manage and dismiss attendants.

(b) At the State's option, the State may provide permissible services and supports that are linked to an assessed need or goal in the individual's person-centered service plan. Permissible services and supports may include, but are not limited to, the following: (1) Expenditures for transition costs such as rent and utility deposits, first month's rent and utilities, bedding, basic kitchen supplies, and other necessities linked to an assessed need for an individual to transition from a nursing facility, institution for mental diseases, or intermediate care facility for Individuals with Intellectual Disabilities to a home and community-based setting where the individual resides; (2) Expenditures relating to a need identified in an individual's person-centered service plan that increases an individual's independence or substitutes for human assistance, to the extent that expenditures would otherwise be made for the human assistance.

CT SPA No. 15-012, pursuant to section 1915(k) of the Social Security Act, effective July 1, 2015, § 5(A) provides in relevant part for assistance with Activities of Daily Living (ADLs) or Instrumental Activities of Daily Living (IADLs) and health-related tasks through hands-on assistance, supervision, and/or cueing. The State will cover Attendant Care services, which are supports related to core activities of daily living including**; physical assistance and/or verbal assistance** to the individual in accomplishing any Activities of Daily Living (ADLs**), or** Instrumental Activities of Daily Living (IADLs). ADLs may include, but not limited to, bathing, dressing, toileting, transferring, and feeding. IADLs means activities related to living independently in the community, including, but not limited to, meal planning and preparation, managing finances, shopping for food, clothing, and other essential items, performing essential household chores, communicating by phone or other media, and traveling to participate in the community. In accordance with section 20-101 of the Connecticut General Statute, attendants may complete health maintenance tasks. These tasks may include, but are not limited to, medication administration, wound care, and vital signs under the supervision of the CFC participant.

The Department correctly determined that the Appellant requires cueing and/or supervision with one (1) ADL, bathing.

The Department correctly determined that the Appellant requires assistance with several IADL's including, but not limited to, shopping, meal preparation, household cleaning, finances and transportation.

The Department incorrectly determined that the Appellant's ADL's must require extensive assistance to be considered in her budget.

Based on the hearing record and the assessment, the Appellant's needs have not changed and she is entitled to 30.25 hours of care based on a LON of three (3) and an ADL of one (1) (21.5 + 8.75 = 30.25 hours).

DISCUSSION

The Appellant's legal counsel's contention that the CFC program is required to provide PCA services for supervision and/or cueing is supported by the CT SPA No. 15-012 § 5(A) which provides for Included Services (Required Services & Permissible Purchases) and states "The State will cover Attendant Care services, which are supports related to core activities of daily living including; physical assistance and/or verbal assistance to the individual in accomplishing any Activities of Daily Living (ADL's) or Instrumental Activities of Daily Living (IADL's)".

The testimony and evidence from this hearing indicates the Appellant's condition has not improved in relation to previous assessments.

At the 2023 assessment, the Appellant was received a LON of one (1) with supervision for one (1) ADL and the Department granted an exception for thirty (30) hours per week to meet her needs.

The 2025 assessment indicates a LON of three (3) and one (1) ADL requiring supervision and/or cueing. This assessment results in a need for 30.25 hours without an exception.

DECISION

The Appellant's appeal is **GRANTED**

ORDER

1. The Department shall provide the Appellant with an update NOA indicating the approval for 30.25 hours per week PCA hours and corresponding budget.

2. The Department shall provide proof of compliance to the undersigned within 10 days of this decision.

A. MacDonough
Amy MacDonough
Fair Hearing Officer

CC: hearings.commops@ct.gov
Cynthia Cartier, Department's Counsel
Randell Wilson, Community First Choice Manager, Connecticut Community Care

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.