

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATION AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CONNECTICUT 06105-3725

██████████ 2016
Signature Confirmation

Client ID: ██████████
Hearing ID: 787734

NOTICE OF DECISION

PARTY

██████████
C/O ██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2016, the Department of Social Services (“Department”) sent ██████████ (the “Applicant”) and her Co-Power of Attorney’s a Notice of Action (“NOA”) denying her application for Medical benefits under the Medicaid and Long Term Care Assistance (“LTSS”) program.

On ██████████ 2016, the Applicant’s Power of Attorney requested an administrative hearing to contest the Department’s decision to deny such benefits.

On ██████████ 2016, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a Notice scheduling the administrative hearing for ██████████ 2016.

On ██████████ 2016, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing. The following individuals were present at the hearing:

██████████, Co-Power of Attorney for Applicant
Lindsey Meyer, Department’s Representative
Shelley Starr, Hearing Officer

The Applicant, ██████████ was not present at the fair hearing due to health reasons.

The hearing record remained open for the submission of additional evidence from the POA and for the Department to provide a written response. The Department did not respond to the additional evidence submitted into the hearing record by the Appellant. On [REDACTED] 2016, the hearing record closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Appellant's Medical Assistance application because she does not meet the Medicaid citizenship requirements is correct.

FINDING OF FACTS

1. On [REDACTED] 2016, the Applicant was admitted to Cassena Care Nursing Home of Norwalk, Connecticut for short term rehabilitation after suffering from a fall. (Hearing Summary; POA Testimony)
2. On [REDACTED] 2016, the Applicant applied for Medicaid for long term care/home care services. (Hearing Summary; Exhibit 1: Application dated [REDACTED] 2016)
3. The Appellant is 76 years old (DOB [REDACTED]40) and is a widow. (Exhibit 1: Application dated [REDACTED] [REDACTED] 2016; Exhibit 3: Appellant's employment authorization card; POA Testimony)
4. The Appellant is not a United States citizen. (Exhibit 1: Application dated [REDACTED] [REDACTED] 2016; Exhibit 3: Appellant's employment authorization card; POA Testimony)
5. The Appellant was born in Haiti. There is no evidence in the hearing record that documents her entry date into the United States. (Exhibit 1: Application dated [REDACTED] 2016; Hearing Record)
6. The Appellant is a recipient of Medicare Part A only and her income is a Social Security survivor's benefit of \$295.00 per month. (Exhibit 1: Application; POA Testimony)
7. On [REDACTED] [REDACTED] 2016, the department sent the Appellant's Co-Power of Attorney's a W-1348 Verification We Need form requesting verification of income, assets and proof of citizenship, if born outside of the United States. The information was due by [REDACTED] 2016. (Exhibit 2: W-1348 dated [REDACTED] 2016)

8. On [REDACTED] 2016, the Department received the Applicant's submitted verification. In regards to the Applicant's proof of citizenship request, the Department received the Applicant's employment authorization card. (Hearing Summary; Department's Testimony; Exhibit 3: Employment Authorization Card)
9. On [REDACTED] 2016, the Department requested a SAVE report from the Department of Homeland Security. The report indicated that the Applicant was from Haiti with Temporary Protected Status-with employment authorized. Exhibit 4: SAVE report; Department's Testimony)
10. There is no evidence in the hearing record that the Department requested from the Applicant, the original documentation of her non- citizen status or that they explored the Applicant's status as a Haitian, by instituting secondary verification from SAVE via forms G-845 and G-845 supplement to further determine her eligibility. (Department's Testimony; Hearing Record)
11. On [REDACTED] 2016, the Department denied the Applicant's application for Medicaid based on her Temporary Protected Status and for failing to meet the citizenship requirements. (Hearing Summary; Exhibit 5: NOA dated [REDACTED] 2016; Exhibit 11: Case Narrative; Exhibit 12: STAT screenprint)

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.
2. Section 17b-261b(a) of the Connecticut General Statutes states that the Department of Social Services shall be the sole agency to determine eligibility for assistance and services under programs operated and administered by said department.
3. Uniform Policy Manual ("UPM") § 1540.10 provides that the verification of information pertinent to an eligibility determination or a calculation of benefits is provided by the assistance unit or obtained through the direct efforts of the Department.

UPM § 1540.15(F)(1) provides that the Department uses the Federally-mandated Systemic Alien Verification for Entitlement (SAVE) to obtain information from the Immigration and Naturalization Service regarding the status of all individuals who are not citizens, except those ineligible non-citizens applying for emergency medical treatment. The status of individuals who are subject to SAVE is verified (a) at the time of application.

UPM § 1540.15 (F)(4) provides that information from SAVE is obtained through two processes: (a) Primary verification – a direct access to INS files; (b) Secondary verification – a manual procedure in addition to or in lieu of primary verification.

4. UPM § 3005.08 (A)(7) & (8) provides for eligible non-citizens and states in part that an eligible non-citizen is one who arrives in the U.S. prior to 8/22/96 and: (7) is lawfully residing in the state and is: (8) granted status as a Cuban and Haitian entrant under section 501(e) of the Refugee Education Assistance Act of 1980.

UPM § 3099.05 (A) provides that citizenship only needs to be verified if the claim to citizenship is questionable.

UPM § 3099.05 (B)(1)& 2 provides that Non-citizens are required to submit sufficient documentation to the Department to establish eligible non-citizen status.(2.) Ineligible non-citizens applying for emergency medical treatment are not required to provide documentation of their non-citizen status.

UPM § 3099.05 (C) provides that non-citizens sponsored by public agencies or organizations are required to provide: 1. Verification of their dates of entry or date of admission as lawful permanent residents; and 2. All pertinent available information about their sponsors, including verification of a sponsoring organization's ability to support them.

UPM § 3099.05 (D) provides that the penalty for failure to verify citizenship status is ineligibility of the individual until the requirement is met. The penalty does not apply to presumptively eligible recipients.

UPM § 3099.05 (E) provides that non-citizens who do not otherwise meet eligible non-citizen criteria (3005.05), except for an emergency medical condition are required to submit a statement signed by a physician, verifying the need for emergency treatment.

UPM § 3099.06 (P)(1) provides the verification requirements for non-citizens and provides that original documentation of non-citizen status for all non-citizens should be requested except otherwise ineligible non-citizens applying for emergency medical treatment.

UPM 3099.06 (P)(8) provides to institute additional verification via SAVE for any non-citizen claiming legal alien status whose status cannot be verified via an initial verification request through the SAVE system.

UPM 3099.06 (P)(9) provides to institute use of G845/G-845(S) Supplement when requested by SAVE or when an history of status is necessary.

Since the Department did not request the Appellant's original documentation of her non-citizen status and institute secondary save verification via the G845/G845(S) for specific verification regarding the Applicant's Haitian status, the Department incorrectly denied the Applicant's LTSS Medicaid application.

DECISION

The Appellant's appeal is remanded to the Department for further action.

1. The Department shall reopen the LTSS application from the [REDACTED] 2016 application date.
2. The Department shall request in accordance to 3099.05(P)(1),(8)&(9) the original documentation of the Appellant's non -citizen status and institute secondary SAVE verification through the use of the G845/G845(S)forms.
3. Compliance with this order is due by [REDACTED] 2016, by providing a copy of the STAT screen.

Shelley Starr
Shelley Starr
Hearing Officer

cc: Poonam Sharma, Operations Manager, DO# 30 Bridgeport
Fred Presnick, Operations Manager, DO #30 Bridgeport
Yecenia Acosta, Program Manager, DO #30 Bridgeport

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 06105-3725.

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, 55 Elm Street, 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.