

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

██████████ 2017
Signature Confirmation

Client ID # ██████████
Request # 801033

NOTICE OF DECISION
PARTY

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PROCEDURAL BACKGROUND

On ██████████ 2016, the Department of Social Services (the “Department”) sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) denying the application for Medicaid under the Long Term Care Program.

On ██████████ ██████████ 2016, ██████████ ██████████, Appellant’s Authorized Representative (“AREP”) and Power of Attorney (“POA”), 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, 17-61 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:

██████████, Appellant’ Representative and POA
Asha Kistoo, Pierce Memorial Baptist, Account Manager for the Appellant
Mario Ponzio, Eligibility Worker, DSS New Haven
Veronica King, Hearing Officer

The hearing record remained open for the submission of additional evidence. On ██████████ 2017, the hearing record closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Applicant's application for medical assistance for failing to provide information was correct.

FINDINGS OF FACT

1. The Appellant is ■ years old and suffers from Dementia and Alzheimer's. (Hearing Record)
2. The Appellant lived at Connecticut Baptist homes INC's assisted living facility prior to moving to the Pierce Memorial Baptist nursing home. (Hearing Record)
3. In 2010, the Appellant told her nieces that her mind was failing and ■ became her Power of Attorney ("POA"). The Appellant was a very independent woman and insisted on control of her affairs. She kept up to date with her appointments, bills and medications with the help of the assisted living staff. With time her care was increased and more frequent hospitalizations occurred increasing her confusion. (Appellant's Exhibit A: Letter dated ■/16)
4. In the ■ of 2013, the social worker called the POA because it became obvious that the Appellant did not know the difference between \$10,000, \$1,000 or \$100. She had written a \$10,000 check to her friend and when the social worker asked her about it, she was confused and did not know the amount of the check that she had written. The money was returned to the Appellant's account. (Appellant's Exhibit A)
5. It became clear that due to the depreciation of the Appellant's health she was no longer able to manager her financial affairs. The POA met with the Appellant and explained that she could not continue as her POA unless she had control of all her financial affairs. Since 2013 the POA took control of the majority of the Appellant's financial affairs with the exception of the Putnam Bank account that was later surrender. (Appellant's Exhibit A)
6. On ■ 2016, the Department received an application for Medicaid for Long Term Care assistance. (Exhibit 5: Narrative screens and Hearing Record)
7. On ■ 2016, the Department issue a Verification We Need form ("W1348LTC") to the POA. The verifications were due on ■/16. On ■ 16, the Department received partial requested verifications and sent another W1348LTC. (Exhibit 5 and Hearing Record)

8. Between [REDACTED]/16 and [REDACTED]/16, the Department sent several W1348LTCs to the POA. During this time, the AREP maintained contact with the Department's representative and requested extensions when needed. (Exhibit 5 and Hearing Record)
9. On [REDACTED], 2016, the POA contacted the Department to say she was having difficulty obtaining information regarding the \$100,005.21 withdrawal of the CSE account [REDACTED]. The Department sent a W36 (Certificate and Authorization for Disclosure of Property of Applicants or Recipients of State Aid) form to CSE [REDACTED] Credit Union) to verify if the Appellant opened another account or closed the account [REDACTED]. (Exhibit 5 and Exhibit 4: W36 form)
10. On [REDACTED] 2016, the Department sent a W1348LTC requesting the outstanding needed verification to the POA. The W1348LTC requested where the [REDACTED]/11 \$100,005.21 withdrawn from the closed CSE account [REDACTED] was deposit/spent, where the \$5,028.15 withdrawn from Savings Institute account [REDACTED] on [REDACTED] 2013 was spent, and verify the source of the \$19,000.00 deposit into Savings Institute account [REDACTED]. All requested verifications were due by [REDACTED] 2016. (Exhibit 3: W1348LTC, [REDACTED]/16 and Exhibit 1: CSE statement)
11. On [REDACTED] 2016, the Department received the W36 back from CSE showing only the [REDACTED] account closed on [REDACTED] 11. (Exhibit 4)
12. On [REDACTED] 2016, the Department denied the application for Long Term Care for Medicaid because there had been no response to the W1348LTC due [REDACTED]/16. (Exhibit 6: Denial Notice, [REDACTED]/16)
13. The Department's Representative was able to find where the \$5,028.15 [REDACTED] 2003 withdrawal was spent. (Department's Testimony)
14. On [REDACTED] 2016, the Department's Representative testified that the only outstanding verification at this time it is the CSE [REDACTED]/11 \$100,005.21 withdrawal. (Hearing Record)
15. The POA exhausted all venues to verify what happened with the \$100,005.21 funds. (Hearing Record)
16. The Department exhausted all avenues to verify what happened with the \$100,005.21 funds. (Exhibit 5 and Department's Testimony)
17. The POA was not aware of the CSE account [REDACTED]. The POA only knew about the account when the Department requested information. (Appellant's Exhibit A and Hearing Record)

18. The POA have worked with honesty and transparency in dealing with the Appellant's financial affairs. She has cooperated with the Department through the application process. (Hearing Record)

CONCLUSIONS OF LAW

1. Section § 17b-2 and § 17b-260 of the Connecticut General Statutes ("CGS"), authorizes the Commissioner of the Department of Social Services to administer the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Uniform Policy Manual ("UPM") § 1005.05 provides the assistance unit has the right to apply for assistance under any of the programs administered by the Department.
3. UPM § 1505.15 (C) (1) (a) (3) (b) provides that for the AFDC, AABD, MA programs the following individuals are qualified to request cash or medical assistance, be interviewed and complete the application process on the behalf of other who they represent: (3) a conservator, guardian or other court appointed fiduciary. If the above individual is not available, the following persons may file the application on the assistance unit's behalf: (1) another responsible assistance unit member; or (2) an authorized representative.
4. The Department correctly accepted the application and added the POA as the Appellant's authorized representative.
5. UPM § 1010.05 (A) (1) provides that the assistance unit must supply the Department in an accurate and timely manner as defined by the Department, all pertinent information and verification which the Department requires to determine eligibility and calculate the amount of benefits.
6. UPM § 1015.05 (C) states that the Department must tell the assistance unit what the unit has to do to establish eligibility when the Department does not have sufficient information to make an eligibility determination.
7. The Department correctly issued the Appellant's POA the W1348-Verification We Need form with a listing of outstanding information needed to determine eligibility.
8. UPM § 1505.35 (D)(2) provides that the Department determines eligibility within the standard of promptness for the AFDC, AABD, and MA programs except when verification needed to establish eligibility is delayed and one of the following is true: the client has good cause

for not submitting verification by the deadline, or the client has been granted a 10 day extension to submit verification which has not elapsed.

9. The Department correctly granted the POA request for extensions.
10. UPM § 1505.40 (B)(5)(a) provides that for delays due to insufficient verification, regardless of the standard of promptness, no eligibility determination is made when there is insufficient verification to determine eligibility when the following has occurred: 1. the Department has requested verification; and 2. at least one item of verification has been submitted by the assistance unit within a time period designated by the Department but more is needed.
11. UPM 1540.10 provides 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.
12. UPM 1540.10 (A) provides the assistance unit bears the primary responsibility for providing evidence to corroborate its declarations.
13. UPM 1540.10 (C) (1) (2) provides the Department obtains verification on behalf of the assistance unit when the following conditions exist:
 - (1) the Department has the internal capability of obtaining the verification needed through such means as case files, microfiche records, or direct access to other official records; or
 - (2) the Department has the capability to obtain the verification needed , and the assistance unit has done the following:
 - a. made a reasonable effort to obtain the verification on its own; and
 - b. been unable to obtain the verification needed ; and
 - c. requested the Department's help in obtaining the verification; and
 - d. continued to cooperate in obtaining the verification.
14. The POA made a reasonable effort to obtain the requested verifications.
15. The POA correctly conveyed to the Department the difficulty in obtaining the verification regarding to the CSE account [REDACTED].
16. The Department exhausted all avenues to verify what happened with the funds of the CSE account [REDACTED].
17. The Department incorrectly denied the Appellant's application because of the unusual circumstances of this case, which were beyond the Appellant's POA's control.

DISCUSSION

The Appellant's POA and the Department's representative testified credibly that they exhausted all venues trying to verify what happened with the funds of the CSE account [REDACTED]. The POA stated that when the Appellant closed the CSE account in [REDACTED]/11, she was not fully involved and aware of all the Appellant's financial assets. The Appellant is [REDACTED] years old and suffers from dementia and alzheimers. It is reasonable to say that she is not holding any information with the intent to qualify for State assistance.

Based upon the circumstances of this case, I find that the Department incorrectly denied the Appellant's application for failure to provide information when the only missing verification is the whereabouts of the CSE funds withdrawn on [REDACTED]/11.

DECISION

The Appellant's appeal is **GRANTED**

ORDER

The Department is to reopen the [REDACTED] 2016 application and determine eligibility for the retroactive time period associated with that application. Compliance with this order is due by [REDACTED] 2017 and shall consist of documentation that the [REDACTED] application was reopened.

Veronica King

Veronica King
Hearing Officer

CC: Tonya Cook-Beckford, DSS Operations Managers, Willimantic
[REDACTED], Appellant's POA
Mario Ponzio, DSS Eligibility Staff, New Haven

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, 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.