

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

██████████, 2018
Signature Confirmation

Request # ██████████
Case # ██████████
Client ID # ██████████

NOTICE OF DECISION
PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████, 2018, the Department of Social Services (the “Department”) sent ██████████ ██████████ (the “Appellant”) a notice indicating the Appellant’s Long Term Care (“LTC”) benefits were discontinued effective ██████████, 2017 for failure to complete the review process.

On ██████████, 2018, the Appellant’s authorized representative, ██████████, requested an administrative hearing to contest the Department’s decision to discontinue such benefits.

On ██████████, 2018, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████, 2018.

On ██████████, 2018, OLCRAH, at the Appellant’s request, issued a notice rescheduling the administrative hearing for ██████████, 2018.

On ██████████, 2018, 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:

██████████, for the Appellant
 ██████████, for the Appellant
 Kenneth Smiley, Department's Representative by telephone
 Christopher Turner, Hearing Officer

The hearing record was left open for the submission of additional information. The information was received and the record closed ██████████, 2018.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to discontinue the Appellant's LTC benefits for failure to complete the review process was correct.

FINDINGS OF FACT

1. On ██████████ 2016, the Department processed the Appellant's LTC redetermination. The period of eligibility given was ██████████ through ██████████/██████████. (Appellant's Exhibit 8: Notice dated ██████████/16)
2. On ██████████, 2017, the Department completed a passive renewal of the Appellant's Medicare Savings Program. The period of eligibility listed was ██████████/17 through ██████████/18. (Exhibit 2: Notice dated ██████████/17; Hearing summary; Appellant's Exhibit 11: Notice dated ██████████/17)
3. On ██████████, 2018, the Department sent the Appellant a notice indicating the Appellant's LTC benefit was closed effective ██████████/17 for failure to complete the review process. (Exhibit 3: Notice dated ██████████/18; W1348LTC; Appellant's Exhibit 12: Notice dated ██████████/18)
4. On ██████████, 2018, the Department mailed a Renewal of Eligibility ("W1ER") form to the Appellant's daughter to be completed. A returned by date was not given. (Exhibit 1: Case notes; Hearing summary)
5. On ██████████, 2018, the Appellant's representative submitted an online change form reporting the Appellant received a refund check from HMS. A special needs trust was set up by the Appellant's Attorney. (Exhibit 6: Copy of refund check; Hearing summary)
6. On ██████████, 2018, the Department sent the Appellant a W-1348 requesting verification of the special needs trust. (Exhibit 1; Hearing summary)
7. On ██████████, 2018, the Appellant's Attorney completed a W1ER. (Exhibit 11: Copy of W-1ER)

8. As of the hearing date, the Appellant's LTC assistance remains closed. (Department's testimony)

CONCLUSIONS OF LAW

1. Connecticut General Statutes § 17b-2 provides that 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.
2. Uniform Policy Manual ("UPM") § 1010.05 (C) provides the assistance unit must satisfy certain procedural requirements as described in Section 3500, including 6. cooperating with the Department as necessary. Cooperation includes: a. taking steps as required by the Department to complete the eligibility determination, periodic redetermination of eligibility, interim changes in eligibility or benefit level and Quality Control reviews.
3. UPM § 1545 provides the eligibility of an assistance unit is periodically redetermined by the Department. During the redetermination, all factors relating to eligibility and benefit level are subject to review.

UPM § 1545.05 (A) (1) provides eligibility is redetermined: a. regularly on a scheduled basis; and b. as required on an unscheduled basis because of known, questionable or anticipated changes in assistance unit circumstances.

UPM § 1545.05 (A) (2) provides a redetermination constitutes: a. a complete review of AFDC, AABD or MA certification.

UPM § 1545.05 (A) (3) provides, in general, eligibility is redetermined through the same methods by which eligibility is initially determined at the time of application.

UPM § 1545.05 (B) (1) provides the purpose of the redetermination is to review and, for FS assistance units, to recertify all circumstances relating to: a. need; b. eligibility; c. benefit level.

UPM § 1545.05 (B) (4) provides assistance is discontinued if eligibility is not reestablished.

The Appellant's previous recertification period was [REDACTED]/16 through [REDACTED]/17. A recertification of assistance was not completed before [REDACTED]/17 and the Appellant's LTC benefit was discontinued.

4. UPM §1545.05 (C) provides for prompt action. 1. The redetermination process is designed to allow continuous participation without interruption in eligibility or in the issuance of benefits. 2. In order to assure continuous participation the Department takes prompt action on all redeterminations. 3. Prompt action is taken to effect any interim actions necessitated by changes in circumstances that are discovered during

the redetermination process. 4. Interim actions are processed in accordance with the interim change rules. (Cross Reference: 1555)

UPM § 1545.05 (D) provides for notification. Assistance units are timely notified of all actions taken by the Department, including: 1. notification that a redetermination is to be conducted; 2. notification of adverse action where appropriate; (Cross Reference: 1570); 3. notification of the result of the redetermination; 4. notice of recertification for FS assistance units.

UPM § 1545.15 (A) (1) provides the Department is required to provide assistance units with timely notification of the scheduled redetermination.

UPM § 1545.15 (B) (1) (b) provides notice of the redetermination must be issued no earlier than the first day, or later than the last day of the month preceding the redetermination month.

UPM § 1570.10 (A) provides for notice requirements. Except in situations described below, the Department mails or gives adequate notice at least ten days prior to the date of the intended action if the Department intends to: 1. discontinue, terminate, suspend or reduce benefits; or 2. change the manner or form of payment for programs.

UPM § 1570.10 (B) provides for exceptions to timely notice requirements. 4. In the Medicaid program, the Department sends adequate notice no later than the date of the action, under the following situations, as well as under those described in paragraph 1: c. the Department authorizes the assistance unit to receive assistance for a specific period of time and informs the unit in writing at the time of authorization that assistance automatically terminates when the specific period ends.

The Department failed to send the Appellant a notice for recertification and notify the Appellant her recertification for LTC assistance was due before [REDACTED]/17.

5. UPM §1545.25 (A) provides assistance units are required to complete a redetermination form at each redetermination.

UPM §1545.25 (C) specifies the Department provides each assistance unit with a redetermination form at the same time its notice of redetermination is issued.

UPM §1545.25 (D) provides assistance units that do not complete the redetermination form within the time limits specified in this chapter may be subject to discontinuance or an interruption in benefits.

The Appellant's LTC assistance was discontinued effective [REDACTED]/17 for failure to complete the recertification process.

6. UPM § 1545.40 (B) (1) (a) provides if eligibility has not been reestablished by the end of the redetermination period, the Department continues to provide assistance under the following conditions if it appears that the assistance unit will remain eligible. (3) when the assistance unit demonstrates good cause for failing to complete the redetermination process.

UPM § 1545.40 (B) (1) (b) provides if eligibility is continued, the assistance unit must complete the redetermination process by the end of the month following the redetermination month, unless circumstances beyond the units control continue to delay the process.

UPM § 1545.40 (B) (1) (c) provides eligibility may be continued, and the redetermination held pending, as long as: (1) circumstances beyond the control of the assistance unit delay completion of the redetermination process; and (2) the assistance unit appears to be eligible for assistance.

UPM § 1545.40 (B) (1) (d) provides good cause may include, but is not limited to the following hardships. (1) illness; (2) severe weather; (3) death in the immediate family; (4) other circumstances beyond the control of the assistance unit.

UPM § 1545.45 (A) provides the following provisions apply to AFDC, AABD or MA assistance units whose eligibility was discontinued at the end of the redetermination period because they failed to complete the redetermination process. 1. Untimely Filing
a. Redetermination forms filed in the month following the redetermination month are treated as initial applications if good cause is not established for the untimely filing. b. If good cause is established: (1) the case is processed as a late redetermination; and (2) eligibility is redetermined within five working days of the date the assistance unit completes all required actions.

The Appellant has established good cause for failing to complete the recertification process due to circumstances beyond her control since the Appellant nor her representative receive a redetermination form from the Department to be completed by [REDACTED]/17.

DISCUSSION


Departmental policy requires that an application for recertification must be received in order to continue getting assistance. In the present case, the Appellant's representatives did not submit a recertification form because they never received one. The Department during these three months waited until [REDACTED], 2018 to address this issue. Additionally, the Department waited almost two months to address the online change form submitted by the Appellant on [REDACTED], 2018. Accordingly, the Department was incorrect to discontinue the Appellant's LTC assistance for failure to complete the recertification process. In addition, regardless of the events that transpired after the Appellant's [REDACTED]/18 request for a hearing, the Department is required to reinstate the Appellant's LTC assistance back to [REDACTED]/17 and address any ongoing eligibility issues after reinstatement.

DECISION

The Appellant's appeal is granted.

ORDER

The Department is directed to reinstate the Appellant's LTC assistance back to [REDACTED]/17 and process as a late redetermination with good cause established. Proof of this order is due by [REDACTED], 2018 and will consist of a copy of the reinstatement notice.


Christopher Turner
Hearing Officer

Cc: Tonya Cook-Beckford, Operations Manager Willimantic
Ken Smiley, DSS Willimantic

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, law, and 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 Legal Counsel, Regulations, and Administrative Hearings, 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, if 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 his 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.