

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

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

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

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████, the Department of Social Services (the "Department") sent ██████████ ("Conservator"), the Conservator of the Person and Conservator of the Estate for ██████████ (the "Appellant") a Notice of Action ("NOA") denying the Appellant's application for Medicaid under the Long Term Care Program ("LTC") effective ██████████, 2016.

On ██████████, 2017, the Conservator requested an administrative hearing on behalf of the Appellant to contest the decision to deny such benefits.

On ██████████ 2017, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████ 2017.

On ██████████ 2017, the Conservator requested a continuance that OLCRAH granted.

On ██████████ 2017, the OLCRAH issued a notice scheduling the administrative hearing for ██████████ 2017.

On ██████████ 2017, the Conservator requested a continuance that OLCRAH granted.

On [REDACTED] [REDACTED], 2017, the OLCRAH issued a notice scheduling the administrative hearing for [REDACTED] 2017.

On [REDACTED], 2017, the Conservator requested a continuance that OLCRAH granted.

On [REDACTED] [REDACTED], 2017, the OLCRAH issued a notice scheduling the administrative hearing for [REDACTED], 2018.

On [REDACTED], 2018, 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:

[REDACTED] Estate Examiner and Conservator of the Person and Conservator of the Estate for the Appellant
 Rachel Figueroa, Department's Representative participated by telephone
 Guerline Dominique, Host Office Observer
 Lisa Nyren, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Appellant's application for Medicaid under the Long Term Care ("LTC") Program effective [REDACTED] 2016 was correct.

FINDINGS OF FACT

1. The Appellant was a resident of [REDACTED] ("nursing facility") a skilled nursing facility. (Exhibit 2: Case Narrative and Exhibit 3: W-1 LTC Application)
2. On [REDACTED] the Hartford Probate Court removed [REDACTED] [REDACTED] ("former Conservator") of her duties as the Appellant's Conservator of the Person and Conservator of the Estate effective [REDACTED]. (Exhibit E: Probate Court Decree)
3. On [REDACTED], the Hartford Probate Court appointed the [REDACTED] [REDACTED] (the "Conservator") as the Appellant's Conservator of the Person and Conservator of the Estate effective [REDACTED]. (Exhibit E: Probate Court Decree)
4. On [REDACTED] [REDACTED] [REDACTED], the Department received an application for Medicaid under the Long Term Care ("LTC") program from the Conservator on behalf of the Appellant. (Exhibit 2: Case Narrative,

Exhibit 3: W-1 LTC Application, Exhibit 7: Notice of Action, and Exhibit A: Correspondence and Emails)

5. On [REDACTED], 2016, the Department issued form W1348LTC We Need Verification From You ("W1348LTC") number 1 to the Conservator requesting verifications necessary to determine the Appellant's eligibility under Medicaid. The requested information was due [REDACTED], 2016. (Exhibit 2: Case Narrative)
6. On [REDACTED], 2016, the Conservator requested verification of financial statements from the Appellant's bank via email. (Exhibit A: Correspondence and Emails)
7. On [REDACTED], 2016, the Conservator submitted some of the requested information via email to the Department and made a request for additional time to submit the outstanding information. (Exhibit A: Correspondence and Emails)
8. On [REDACTED], 2016, the Conservator requested verification of financial statements from the Appellant's bank via email. (Exhibit A: Correspondence and Emails)
9. On [REDACTED] 2016, the Department received some of the requested information via email from the Conservator along with a request for additional time to submit the requested information. (Exhibit 2: Case Narrative and Exhibit A: Correspondence and Emails)
10. On [REDACTED], 2016, the Department issued form W1348LTC number 3 to the Conservator requesting verifications necessary to determine the Appellant's eligibility under Medicaid. The requested information was due [REDACTED], 2016. (Exhibit 2: Case Narrative)
11. On [REDACTED] 2016, the Department received some of the requested information via email from the Conservator along with a request for additional time to submit the outstanding information. (Exhibit 2: Case Narrative and Exhibit A: Correspondence and Emails)
12. On [REDACTED] 2016, the Department issued form W1348LTC number 4 to the Conservator requesting verifications necessary to determine the Appellant's eligibility under Medicaid. The requested information was due [REDACTED], 2016. (Exhibit 2: Case Narrative)
13. On [REDACTED], 2016, the Conservator submitted some of the requested information via email to the Department and made a request for additional time to submit the outstanding information requested by the Department. (Exhibit A: Correspondence and Emails)

14. On [REDACTED], the Appellant passed away. The Appellant suffered a heart attack, suffered brain damage and remained in a vegetative state until his death. (Exhibit 2: Case Narrative and Conservator's Testimony)
15. On [REDACTED], 2016, the Department received some of the requested information via email from the Conservator. (Exhibit 2: Case Narrative)
16. On [REDACTED] 2016, the Department issued form W1348LTC number 5 to the Conservator requesting verifications necessary to determine the Appellant's eligibility under Medicaid. The requested information was due [REDACTED] 2016. (Exhibit 2: Case Narrative)
17. On [REDACTED] 2016, the Conservator submitted some of the requested information to the Department and requested additional time for outstanding items. (Exhibit A: Correspondence and Emails)
18. On [REDACTED], 2016, the Department issued form W1348LTC number 6 to the Conservator requesting verifications necessary to determine the Appellant's eligibility under Medicaid. The requested information was due [REDACTED] 2016. (Exhibit 2: Case Narrative)
19. On [REDACTED] 2016, the Conservator submitted some of the requested information to the Department and requested additional time for outstanding items. (Exhibit A: Correspondence and Emails)
20. On [REDACTED] 2016, the Department issued form W1348LTC number 7 to the Conservator requesting verifications necessary to determine the Appellant's eligibility under Medicaid. The requested information was due [REDACTED], 2016. (Exhibit 2: Case Narrative)
21. On [REDACTED] 2016, the Conservator submitted some of the requested information via email to the Department and requested additional time for outstanding items. (Exhibit A: Correspondence and Emails)
22. On [REDACTED], 2016, the Department received some of the requested information from the Conservator via email. (Exhibit 2: Case Narrative)
23. On [REDACTED] 2016, the Department issued form W1348LTC number 8 to the Conservator requesting verifications necessary to determine the Appellant's eligibility under Medicaid. The requested information was due [REDACTED] 2017. (Exhibit 2: Case Narrative)
24. On [REDACTED] 2017, the Department received some of the requested information from the Conservator via email. (Exhibit 2: Case Narrative)

25. On [REDACTED], 2017, the Conservator submitted some of the requested information to the Department via email. (Exhibit A: Correspondence and Emails and Exhibit 2: Case Narrative)
26. On [REDACTED], 2017, the Department issued form W1348LTC number 10 to the Conservator requesting verifications necessary to determine the Appellant's eligibility under Medicaid. The requested information was due [REDACTED] 2017. (Exhibit 2: Case Narrative)
27. On [REDACTED], 2017, the Conservator submitted some of the requested information via email to the Department and requested additional time to submit outstanding information. (Exhibit A: Correspondence and Emails)
28. On [REDACTED] 2017, the Department received some of the requested information from the Conservator. (Exhibit 2: Case Narrative)
29. On [REDACTED] 2017, the Department issued form W1348LTC number 11 to the Conservator requesting verifications necessary to determine the Appellant's eligibility under Medicaid. The requested information was due [REDACTED], 2017. (Exhibit 2: Case Notes)
30. On [REDACTED] 2017, the Conservator emailed the former conservator and requested information regarding the Appellant necessary to determine Medicaid eligibility during her tenure as the Appellant's conservator. (Exhibit A: Correspondence and Emails)
31. On [REDACTED] 2017, the Conservator submitted some of the requested information via email to the Department and requested additional time to submit outstanding information. (Exhibit A: Correspondence and Emails)
32. On [REDACTED] 2017, the Department received some of the requested information via email from the Conservator. (Exhibit 2: Case Narrative)
33. On [REDACTED] 2017, the Department issued form W1348LTC number 12 to the Conservator requesting verifications necessary to determine the Appellant's eligibility under Medicaid. The requested information was due [REDACTED] 2017. (Exhibit 2: Case Narrative)
34. On [REDACTED] 2017, the Department received some of the requested information and a request for additional time from the Conservator to submit outstanding verifications. (Exhibit 2: Case Narrative and Exhibit A: Correspondence and Emails)
35. On [REDACTED] 2017, the Department issued form W1348LTC number 13 to the Conservator requesting verifications necessary to determine the

- Appellant's eligibility under Medicaid. The requested information was due [REDACTED], 2017. (Exhibit 2: Case Narrative)
36. On [REDACTED] 2017, the Conservator contacted the Appellant's bank via email to inquire on the status of financial information previously requested. (Exhibit A: Correspondence and Emails)
 37. On [REDACTED] 2017, the former conservator's office responded to the Conservator's [REDACTED] 2017 email. The email states the former conservator is unable to obtain the information requested by the Conservator [REDACTED] [REDACTED] (Exhibit A: Correspondence and Emails)
 38. On [REDACTED] 2017, the Appellant's bank responded to the Conservator's [REDACTED] 2017 email noting financial statements not available to date. (Exhibit A: Correspondence and Emails)
 39. On [REDACTED] 2017, the Conservator emailed the Department requesting an extension of time to submit requested verification because the former conservator cannot be reached due to illness and the Appellant's bank needs more time to provide the requested documentation. (Exhibit 2: Case Narrative and Exhibit A: Correspondence and Emails)
 40. The Department granted the Conservator's request for additional time to submit outstanding verification. The new due date is [REDACTED] 2017. (Exhibit 2: Case Narrative)
 41. On [REDACTED], 2017, the Department received some of the requested verification submitted by the Conservator. (Exhibit 2: Case Narrative)
 42. On [REDACTED] 2017, the Department issued form W1348LTC number 14 to the Conservator requesting verifications necessary to determine the Appellant's eligibility under Medicaid. The requested information was due [REDACTED], 2017. (Exhibit 2: Case Narrative)
 43. On [REDACTED] 2017, the Conservator submitted some of the requested information to the Department and requested additional time to submit outstanding verifications because the documentation provided by the bank to the Conservator was incomplete. (Exhibit A: Correspondence and Emails)
 44. On [REDACTED], 2017, the Conservator submitted some of the requested information to the Department and requested additional time to submit outstanding verifications due to a delay from the Appellant's bank. (Exhibit A: Correspondence and Emails)

45. On [REDACTED], 2017, the Department received duplicate information from the Conservator. (Exhibit 2: Case Narrative)
46. On [REDACTED], 2017, the Department issued form W1348LTC number 15 to the Conservator requesting verifications necessary to determine the Appellant's eligibility under Medicaid. The requested information was due [REDACTED] 2017. (Exhibit 2: Case Narrative)
47. On [REDACTED], 2017, the Conservator emailed the former conservator and requested Appellant financial information during her tenure as the Appellant's conservator necessary to determine Medicaid eligibility. The Conservator requested access to the former conservator's files regarding the Appellant. (Exhibit A: Correspondence and Emails)
48. On [REDACTED] the former conservator passed away. (Exhibit B: Obituary)
49. On [REDACTED], 2017, the Conservator submitted some of the requested information to the Department and requested additional time to submit outstanding verifications because the bank is unable to provide the requested documentation and the Conservator awaits a response from the former conservator. (Exhibit 5: Email and Exhibit A: Correspondence and Emails)
50. On [REDACTED] 2017, the Department issued form W1348LTC number 16 to the Conservator requesting verifications necessary to determine the Appellant's eligibility under Medicaid. The requested information was due [REDACTED] 2017. (Exhibit 5: Email, Exhibit 6: W1348LTC and Department Representative's Testimony)
51. On [REDACTED], 2017, the Conservator emailed the bank representative to request additional account information. The Conservator received an automated return email from the bank representative confirming the bank representative is out the office through [REDACTED], 2017. (Exhibit A: Correspondence and Emails)
52. The Department did not receive the requested information by the [REDACTED] 2017 due date. The Department did not receive a request for an extension of time from the Conservator. (Department Representative's Testimony, Exhibit 2: Case Narrative, Exhibit 7: Notice of Denial, and Exhibit A: Correspondence and Emails)
53. On [REDACTED], 2017, the Department denied the Appellant's application for Medicaid under the LTC program because the Department did not receive the required information necessary to determine Medicaid eligibility.

(Exhibit 2: Case Narrative, Exhibit 7: Notice of Denial, and Exhibit A: Correspondence and Emails)

54. On [REDACTED] 2017, the Department issued a notice of action to the Conservator via *regular mail* on behalf of the Appellant. The notice stated the Department denied the Appellant's application for Medicaid under the LTC program effective [REDACTED] 2016 because you did not return all of the required verification we asked for. (Exhibit 7: Notice Denial)
55. On [REDACTED] 2017, the Conservator submitted some of the requested information to the Department and requested additional time to submit outstanding items. The Conservator notified the Department the former conservator died and he may not be able to obtain some of the outstanding documentation due to her death. (Exhibit A: Correspondence and Emails)
56. On [REDACTED], 2017, the Department notified the Conservator via email that the Appellant's application for Medicaid has been denied. The Department writes, "This case has been denied as information was due on [REDACTED] 17 and an extension was not requested. Please submit a new application for review." (Exhibit A: Correspondence and Emails)
57. On [REDACTED], 2017, the Conservator contacted the Department via email after receiving the notice of denial in the mail. The Conservator believed the due date for outstanding verification was May 15, 2017 in error rather than [REDACTED] 2017 and requested the Department reverse the denial and reopen the Medicaid application. (Conservator's Testimony and Exhibit A: Correspondence and Emails)
58. On [REDACTED] [REDACTED] [REDACTED] the Hartford Probate Court appointed the Conservator as Estate Examiner on behalf of the Appellant for the period beginning [REDACTED] and terminating on [REDACTED]. (Hearing Record)

CONCLUSIONS OF LAW

1. Section 17b-2(6) of the Connecticut General Statutes provides that the Department of Social Services is designated as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Uniform Policy Manual ("UPM") § 1505 provides that the application process outlines the general methods and requirements used in obtaining assistance and in determining an assistance units initial eligibility. The application process is essentially the same for all programs. It is designed

to provide aid in a prompt and efficient manner to those who request assistance.

3. UPM § 1505.15(A)(1) provides that applicants may apply for and be granted assistance on their own behalf or, under certain conditions, be represented by other qualified individuals who act responsibly for them.

UPM § 1505.15(C)(1)(a) provides that the following individuals are qualified to request cash or medical assistance, be interviewed and, complete the application process on the behalf of others who they represent:

1. The caretaker relative of a child applicant;
 2. The spouse, provided that the spouse is not estranged;
 3. A conservator, guardian or other court appointed fiduciary.
4. The Department correctly determined the Conservator qualified to submit an application for Medicaid on behalf of the Appellant.
 5. UPM § 1010 provides that the assistance unit, by the act of applying for or receiving benefits, assumes certain responsibilities in its relationship with the Department. This chapter describes those responsibilities which an assistance unit assumes when it applies for or receives benefits from the Department.
 6. UPM § 1015.10(A) provides that the Department must inform the assistance unit regarding the eligibility requirements of the programs administered by the Department, and regarding the unit's rights and responsibilities.

UPM § 1015.05(C) provides 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. On ██████████, 2016, the Department correctly sent the Conservator a W1348LTC form requesting information needed to establish Medicaid eligibility for the Appellant.
8. 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. (cross reference: 1555)

UPM § 1540.10(A) provides that the assistance unit bears the primary responsibility for providing evidence to corroborate its declarations.

9. UPM § 1505.40(B)(5)(a) provides that 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.

UPM § 1505.40(B)(5)(b) provides additional 10 day extensions for submitting verification shall be granted, as long as after each subsequent request for verification at least one item of verification is submitted by the assistance unit within each extension period.

10. On the following dates listed in the chart below, the Department correctly granted an extension for submission of verification to the Conservator on behalf of the Appellant and issued a W1348LTC form requesting information needed to establish Medicaid eligibility for the Appellant.

W1348LTC	Issuance Date	Information Due Date	Date(s) Information Received by Department/Submitted by Conservator
1	█/16	█16	█16, █16
2	Unable to determine from hearing record	Unable to determine from hearing record	
3	█16	█16	█/16
4	█16	█/16	█/16, █16
5	█16	█/16	█6
6	█16	█/16	█16
7	█16	█/16	█6, █/16
8	█16	█17	█17
9	Unable to determine from hearing record	Unable to determine from hearing record	█17
10	█17	█/17	█/17, █/17
11	█17	█/17	█/17, █/17
12	█/17	█/17	█/17
13	█17	█/17	█17
14	█/17	█/17	█/17, █17, █/17
15	█/17	█/17	█/17
16	█/17	█/17	█/17

11. UPM § 1505.40(B)(4)(a) provides that the eligibility determination is delayed beyond the AFDC, AABD or MA processing standard if because

of unusual circumstances beyond the applicant's control, the application process is incomplete and one of the following conditions exists:

1. Eligibility cannot be determined; or
 2. Determining eligibility without the necessary information would cause the application to be denied.
12. UPM § 1505.40(B)(3)(a)(2) provides that the following provisions apply if subsequent to an administrative delay the applicant becomes responsible for not completing the application process: for AFDC, AABD, and MA applications, the Department: continues to pend the application if good cause can be established or if a 10 day extension is granted.
13. The Appellant's medical condition that led to his death on [REDACTED] prevented the Conservator from obtaining the outstanding verifications requested by the Department timely. The former conservator's illness that led to her death on [REDACTED] prevented the Conservator from obtaining the outstanding verifications requested by the Department timely. Delays caused by the Appellant's bank prevented the Conservator from obtaining the outstanding verifications requested by the Department timely. The combination of the Appellant's death, the former conservator's death, and the bank delays are unusual circumstances beyond the Conservator's control. The Conservator established good cause on behalf of the Appellant.
14. UPM § 1505.40(B)(4)(b) provides that if the eligibility determination is delayed, the Department continues to process the application until:
1. The application is complete; or
 2. Good cause no longer exists.
15. The Department incorrectly denied the Appellant's application for Medicaid under the LTC program for failure to submit information needed to establish eligibility.

DECISION

The Appellant's appeal is granted.

ORDER

1. The Department must reopen the Appellant's application for LTC Medicaid effective [REDACTED] and continue to process eligibility.

2. The Department must issue a W1348LTC Verification We Need form to the Conservator for any outstanding verification needed to determine eligibility and allow at least 10 days for the submission of the information.
3. Compliance is due [REDACTED], 2018.

Lisa A. Nyren

Lisa A. Nyren
Hearing Officer

PC: Musa Mohamud, Social Services Office Manager
Judy Williams, Social Services Office Manager
Jay Bartolomei, Eligibility Services Supervisor
Rachel Figueroa, Eligibility Services Worker

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.