

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

██████████ 2020
SIGNATURE CONFIRMATION

██████████
Request # 148645

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████ 2019, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") through her attorney and Authorized Representative ("AREP"), Kristen B. Prout, a Notice of Action ("NOA") denying the Appellant's application for Long Term Care ("LTC") Medicaid benefits.

On ██████████ 2019, the Appellant's AREP requested an administrative hearing to contest the Department's decision to deny the Appellant's application for LTC Medicaid.

On ██████████ 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████ 2019.

On ██████████ 2019, 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:

██████████, Appellant's Power of Attorney, Son
Kristen B. Prout, Esq., for the Appellant
Amy Cherrez, Department's Representative
Thomas Monahan, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Appellant's application for LTC Medicaid due to failure to submit information needed to establish eligibility was correct.

FINDINGS OF FACT

1. On [REDACTED], 2019, the Department received an application for Medicaid Long Term Care Assistance for the Appellant. (Hearing record)
2. The Appellant's AREP is attorney Kristen B. Prout. (Exhibit F: Attorney's letter)
3. The Appellant entered [REDACTED] (the "facility") on [REDACTED] 2017. (Appellant's Exhibit 2: Application form)
4. On [REDACTED] 2019, the Department sent to the AREP a Verification We Need form listing the verifications required to process the application. The due date for the information was [REDACTED], 2019. The Department requested multiple bank and brokerage statements (Exhibit C: Verification request, [REDACTED]/19)
5. On [REDACTED], 2019 the Department received some of the requested verifications for the Appellant's application form from the AREP. (Appellant's Exhibits 4 and 5: AREP's letter and FedEx receipt)
6. On [REDACTED] 2019, the Department sent to the AREP a Verification We Need form listing the verifications required to process the application. The due date for the information was [REDACTED], 2019. The Department requested multiple bank statements and bank transaction verifications (Exhibit C: Verification request, [REDACTED]/19)
7. The AREP did not return any of the requested verifications by [REDACTED] 2019. (Hearing record)
8. The Appellant did not request an extension of time for replying to the [REDACTED], 2019 verification request. (Hearing record)
9. On [REDACTED] 2019, the Department denied the Appellant's application for Long term Care Medicaid for failure to provide documentation to determine eligibility. (Appellant's Exhibit 6: Notice of Denial, [REDACTED]/19)
10. The AREP reapplied for LTC Medicaid in [REDACTED] 2019. (AREP's testimony)

11. “The issuance of this decision is timely under Connecticut General Statute 17b-61(a), which requires that a decision be issued within 90 days of the request for an administrative hearing. The Appellant requested an administrative hearing on [REDACTED], 2019. Therefore, this decision is due not later than [REDACTED] 2020.”

CONCLUSIONS OF LAW

1. Section 17b-2 and § 17b-260 of the Connecticut General Statutes, authorizes the Department of Social Services to administer the Medicaid program pursuant to Title XIX of the Social Security Act.
2. “The department’s uniform policy manual is the equivalent of state regulation and, as such, carries the force of law.” *Bucchere V. Rowe*, 43 Conn. Supp. 175, 178 (1994) (citing Conn. Gen Stat. § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A.2d 712 (1990)).
3. Regulation 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. Uniform Policy Manual (“UPM”) § 1010.05(A)(1)
4. UPM § 1505.35 C1 c(2) provides that a standard of promptness is established as the maximum time period for processing applications. For applicants for Medical Assistance on the basis of age; that standard is forty-five calendar days.
5. UPM § 1505.40(B)(1)(b)(1) provides that if the applicant failed to complete the application without good cause, cases are denied between the thirtieth day and the last day of the appropriate standard for processing the application.
6. Regulation 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 § 1015.10(A)
7. The Department correctly sent the Appellant’s AREP a Verification We Need list requesting information needed to establish eligibility.

8. Regulation provides that 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. UPM § 1505.40(B)(5)(b)
9. The Department correctly issued a second verification request form after receiving some information after the first request form was issued.
10. The Department has no record of receiving any additional verification listed on the second request prior to the denial of the Appellant's LTC Medicaid application.
11. The Department correctly denied the Appellant's application for failure to submit information needed to establish eligibility.

DISCUSSION

After reviewing the evidence and testimony presented, the Department's action to deny the Appellant's request for Medicaid is upheld. The Department mailed a second verification request but did not receive a response.

The Appellant reapplied in [REDACTED] 2019 for LTC Medicaid. The Appellant is looking for a [REDACTED] effective date. The Department will process the new application once it has verified that all information necessary has been received. The Department will review the month in which assets and all eligibility requirements were met to determine if eligibility can be back dated to [REDACTED] 2019.

DECISION

The Appellant's appeal is **DENIED**.


Thomas Monahan
Hearing Officer

C: Rachel Anderson, Operations Manager, New Haven Regional Office
Cheryl Stuart, Operations Manager, New Haven Regional Office
Lisa Wells, Operations Manager, New Haven Regional Office
Amy Cherrez, Hearing liaison

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 060105-3725.

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 06105-3725. 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.