

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
25 SIGOURNEY STREET
HARTFORD, CT 06106-5033

██████████, 2013
SIGNATURE CONFIRMATION

Client ID#: ██████████
Hearing ID#: 538401

NOTICE OF DECISION

PARTY

██████████
██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2013, the Department of Social Services (the "Department") sent ██████████
██████████ ("Appellant") and ██████████ as Authorized Representative a Notice of
Action denying her application for Medicaid benefits.

On ██████████ 2013, the Appellant requested an administrative hearing to contest the
Department's decision to deny her Medicaid application.

On ██████████ 2013, the Office of Legal Counsel, Regulations, and Administrative
Hearings ("OLCRAH") issued a Notice scheduling an administrative hearing for ██████████
██████████ 2013.

On ██████████ 2013, in accordance with sections §17b-60, §17b-61 and §4-176e to §4-
189 inclusive, of the Connecticut General Statutes, the Department held an
administrative hearing.

The following individuals were present at the hearing:

██████████ Appellant's son/Authorized Representative
Tekanya Monteiro, Department's Representative
Trish Gethers, Observer
James Hinckley, Observer
Andrea Boardman, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department was correct to deny the Appellant's application for Medicaid benefits because she is an ineligible non-citizen.

FINDINGS OF FACT

1. The Appellant resided in the United States between the time period of 1969-1989. (Department Hearing Summary)
2. The Appellant worked 56 qualifying work quarters in the United States between the time period of 1970-1988 (Exhibit 5: SVES Work History Screen printout)
3. The Appellant did not reside in the United States between the time period of 1989-2012 (Department Hearing Summary)
4. On [REDACTED] 2012, the Appellant entered the United States from Haiti as a lawful permanent resident. (Exhibit 2: Department of Homeland Security documentation)
5. The Appellant was sponsored by her son, [REDACTED] [REDACTED]. (Exhibit 2: Department of Homeland Security documentation)
6. On [REDACTED] 2013, the Appellant applied for Long Term Care Medicaid benefits for herself. (Exhibit 1: W1F Application Part 2: Special Eligibility Determination Document)
7. The Appellant's income is Social Security Retirement in the amount of \$629.90 per month. (Exhibit 6: Bendex benefit printout)
8. The Appellant is not receiving Supplemental Security Income (SSI). (Exhibit 7: SVES Title XVI Information printout)
9. The Appellant is receiving Medicare. (Department Hearing Summary)
10. The Appellant has cancer and had a seizure on [REDACTED] 2013. (Appellant's Representative testimony)
11. The Appellant was hospitalized at Bridgeport hospital commencing on [REDACTED] [REDACTED], 2013 for a period of one month (Appellant's Representative testimony)
12. The Appellant was admitted to Paradigm Skilled Nursing Facility from Bridgeport hospital in [REDACTED] of 2013 and has resided there since that time. (Appellant's Representative testimony)

13. On [REDACTED] 2013, the Department denied the Appellant's application for Medicaid benefits because she did not meet the citizenship requirements. (Exhibit 6: Department Narrative)

CONCLUSIONS OF LAW

1. Section §17b-260 of the Connecticut General Statutes provides for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Section §17b-260 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to take advantage of the medical assistance programs provided in Title XIX, entitled "Grants to States for Medical Assistance Programs", contained in the Social Security Amendments of 1965.
3. Title 8 United States Code §1613 (a): Five Year limited eligibility of Federal means-tested public benefit provides that in general notwithstanding any other provision of law and except as provided in subsections (b)(c) and (d) of this section , an alien who is a qualified alien as defined in section §1641 of this title and who enters the United States on or after August 22, 1996, is not eligible for any Federal means-tested public benefit for a period of 5 years beginning on the date of the alien's entry into the United States with a status within the meaning of the term "qualified alien"
4. Uniform Policy Manual (UPM) §3005.05 provides in order to receive benefits from any assistance program an individual must be either a citizen or an eligible non-citizen
5. UPM §3005.08.B.10.a provides that for the Medicaid program, in part that an eligible non-citizen arriving in the United States on or after August 22, 1996 is someone who has lawfully resided in the U.S. for at least five years and is lawfully admitted to the U.S. for permanent residence under the Immigration and Nationality Act.
6. The Appellant arrived in the U.S. after [REDACTED] 1996.
7. The Appellant has lawfully resided in the U.S. for less than five years from the date of her most recent entry into the United States, which makes her an ineligible non-citizen.
8. The Department correctly denied the Appellant's application for Long Term Care Medicaid benefits because she is an ineligible non-citizen.

DISCUSSION

The Appellant's son testified that his mother has several health issues and needs Long Term Care medical assistance to cover her stay in the skilled nursing facility. The Appellant, however, does not meet the criteria as an eligible non-citizen for Medicaid benefits because she has not lived in the US for at least five years from the date of her entry into the United States as a legal permanent resident. The five year bar as referenced in the United States code is specific that the five years are calculated based on the date of entry into the United States. Although the Appellant did reside in the United States for a period of time several years ago, the residency status was lost when she returned to her native country in 1989.

DECISION

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



Marci Ostroski
Hearing Officer

Cc: Lisa Wells, Operations Manager, Bridgeport RO

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, 25 Sigourney Street, Hartford, CT 06106-5033.

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, 25 Sigourney Street, Hartford, CT 06106. 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.