

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 # ██████████
Request # 538926

NOTICE OF DECISION

PARTY

██████████
██████████
██████████
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PROCEDURAL BACKGROUND

On ██████████ 2013, Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") denying her application for medical assistance.

On ██████████ 2013, the Appellant requested an administrative hearing to contest the Department's decision to deny such benefits.

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

On ██████████ 2013, 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's daughter, Authorized Representative ("AREP")
Power of Attorney ("POA")

██████████, Genesis Health Care, Appellant's Representative

Emily Loveland, Department's Representative

Mark Yeamans, Department's Hearing Liaison

Miklos Mencseli, Hearing Officer

The Appellant was not present at the hearing.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly denied the Appellant's medical assistance application because of failure to submit information needed to establish eligibility.

FINDINGS OF FACT

1. On [REDACTED] [REDACTED] 2012, the Department received the Appellant's W-1F application for medical assistance. (Department's Exhibit A: W-1F dated [REDACTED] 12)
2. The Appellant's daughter, [REDACTED], is the Appellant's Authorized Representative ("AREP") and Power of Attorney ("POA"). (Summary, Exhibit A, Testimony)
3. [REDACTED], from Genesis Health Care assisted the Appellant and Appellant's AREP with the application for medical assistance. She signed the W-1F as Helper's signature. (Summary, Exhibit 1, Testimony)
4. On page one of the W-1F application the question, "Do you need a reasonable accommodation or special help, because of a disability, in order to complete your application?" was checked NO. (Exhibit A)
5. On page one of the W-1F application the question, "What language do you speak best?" was left blank. (Exhibit A)
6. On [REDACTED] 2012, the Department sent the Appellant's AREP a W-1348TLC verification form requesting information needed to process the Appellant's application. The information was due by [REDACTED] 2012. The (Department's Exhibit B: W-1348 dated [REDACTED]-13)
7. On [REDACTED] 2012, the Department was contacted by phone and email regarding accounts at Banco Popular in Puerto Rico. The Department made a referral to the Resources unit to subpoena the bank statements. (Summary, Exhibit C: resources referral)
8. On [REDACTED] 2013, [REDACTED], 2013 and [REDACTED] 2013, the Department received verifications from the Appellant for her application. (Summary)
9. On [REDACTED] 2013, during the review of the verifications received the Department discovered a deduction for National Life on a bank statement from Banco Popular account # [REDACTED]. (Summary, Exhibit D: Banco Popular bank statement)

10. On [REDACTED], 2013, the Department sent the Appellant's AREP a W-1348LTC verification form requesting additional information needed to process the Appellant's application. The Department requested tax returns for 2007-2013, the Appellant's spouse's face and cash value of life insurance as her pension lists a life insurance deduction and a face and cash value for the National Life deduction from the Banco Popular account. The current information was due by [REDACTED], 2013. (Department's Exhibit E: W-1348 dated [REDACTED]-13)
11. On [REDACTED] 2013, the Department received an email with attachments from [REDACTED] that the Department reviewed. (Summary)
12. A letter dated [REDACTED] 2013, from Claro identified the life insurance policy through the pension the Appellant's spouse receives. (Summary, Exhibit F: Claro statement dated [REDACTED]-13)
13. On [REDACTED], 2013, the Department sent the Appellant's AREP a W-1348LTC verification form requesting additional information needed to process the Appellant's application. The Department requested verification of the cash and face values of the Claro policy and face and cash values of the National Life policy from the Banco Popular account. The information was due by [REDACTED] 2013. (Department's Exhibit G: W-1348 dated [REDACTED]-13)
14. On [REDACTED] 2013, the Department received an email with updated bank statements and verification that the Claro life insurance policy is a death benefit only policy. (Summary, Exhibit H: Claro statement dated [REDACTED]-13)
15. On [REDACTED] 2013, the Department having received some verification sent the Appellant's AREP a W-1348LTC verification form requesting additional information needed to process the Appellant's application. The Department requested the face and cash values of the National Life policy from the Banco Popular account. (Department's Exhibit I: W-1348 dated [REDACTED]-13)
16. On [REDACTED] 2013, the Department sent an email to [REDACTED] regarding the Claro and National Life insurance policies. The Department also attached the W-1348LTC that was sent to the Appellant's AREP. (Summary, Exhibit J; email dated [REDACTED]-13)
17. On [REDACTED] 2013, the Department received the subpoena request. (Summary)
18. On [REDACTED] 2013, the Department sent an email to [REDACTED] informing her the subpoena from Puerto Rico came and bank statements will be reviewed. The email was still requesting verification on the insurance policy from National Life. (Summary, Exhibit K: email dated [REDACTED]-13)

19. On [REDACTED] 2013, the Department having received some verification sent the Appellant's AREP a W-1348LTC verification form requesting additional information needed to process the Appellant's application. The Department requested the face and cash values of the National Life policy from the Banco Popular account and additional Banco Popular banks statements for several accounts. The information was due by [REDACTED] 2013. (Summary, Department's Exhibit L: W-1348 dated [REDACTED]-13)
20. On [REDACTED] 2013, the Department sent an email to [REDACTED] regarding the need for more recent bank statements and a reminder of the National Life insurance policy verification. The Department also attached the W-1348LTC that was sent to the Appellant's AREP. (Summary, Exhibit M; email dated [REDACTED]-13)
21. On [REDACTED] 2013, the Department received a fax from Kimberley Hall South, the facility where the Appellant was admitted. It contained a copy of a J.P. Morgan pension for the Appellant's spouse that the Department already had on file. (Summary, Exhibit N: J.P. Morgan statement)
22. On [REDACTED] 2013, the Department, having received no verifications or other response from the Appellant's AREP, denied the Appellant's application for medical assistance for failure to provide information necessary to establish eligibility. (Department's Exhibit P: NOA dated [REDACTED] 13)
23. On [REDACTED] 2013, the Appellant submitted a new application for medical assistance. (Summary, Exhibit S: W-1 dated [REDACTED]-13)
24. On [REDACTED] 2013, the Department is notified that the Appellant needs to contact the Department and hear in Spanish what verifications are needed. (Summary, Exhibit S)
25. The Department was not aware of any language barrier during the application process or received any request to send the W-138LTC's in any language other than English. (Record)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the Medicaid program.
2. Uniform Policy Manual ("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.

3. 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.
4. The Department correctly sent the Appellant's AREP a verification request form requesting information needed to establish eligibility.
5. The Department correctly sent the verification forms In English.
6. UPM §1540.10 A provides that 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. The assistance unit bears the primary responsibility for providing evidence to corroborate its declarations.
7. 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.
8. After sending the Appellant's AREP a W1348LTC on [REDACTED] 2013 with a due date of [REDACTED], 2013, the Department did not receive at least one item of verification it had requested.
9. UPM § 1505.40(B)(5)(b) 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.
10. The Department correctly did not provide the Appellant's AREP an additional 10 day extension, as it did not receive at least one item of verification.
11. UPM §1540.15 (B) (1) (2) provides that documents are the primary sources of verification whenever such evidence can be acquired. The Department accepts any document which it feels clearly establishes the veracity of the unit's declarations without restricting the evidence to any one particular type of document.

12. The Appellant did not provide documentary evidence of the requested verification until after the Department denied the Appellant's application and submission of a new application..
13. UPM § 1540.05 (D) (1) (a) (b) provides the penalty for failure to provide required verification depends upon the nature of the factor or circumstance for which verification is required: If the eligibility of the assistance unit depends directly upon a factor or circumstance for which verification is required, failure to provide verification results in ineligibility for the assistance unit. Factors on which unit eligibility depends directly include, but are not limited to: income amounts and asset amounts.
14. The Department correctly denied the Appellant's [REDACTED] 2012 medical assistance application on [REDACTED] 2013, due to the Appellant's failure to provide information necessary to establish eligibility.

DISCUSSION

The Appellant and her AREP failed to provide the requested information needed for the Department to determine the Appellant's eligibility for the Appellant's application dated [REDACTED] 2012. On [REDACTED] 2013, after the Department denied the Appellant's original application, the Appellant submitted a new application for medical assistance.

The Appellant's AREP and [REDACTED] argued that the Department did not assist the Appellant enough in requests for verification of information. Specifically that the W-1348LTC's were sent in English and not in Spanish. The claim being the AREP has a language barrier. At no time during the application process did the Department receive a request to send the W-1348LTC in any other language than English. The initial application form of 10-22-12 does not indicate the forms should be sent in another language. The Department sent 5 W-1348LTC's to the AREP. The Department was receiving verifications during the process until the last W-1348LTC. In addition, [REDACTED] was also emailed a copy of the last two W-1348LTC's. The issue of the difficulty of providing the Department with the requested verification as the information was coming from Puerto Rico and that the Appellant moved back to Puerto Rico. Again the Appellant's representatives did request assistance in obtaining the verifications or at least contact the Department when the last W-1348LTC was due to request an extension.

It is not until the [REDACTED] 2013 fax the Department is made aware that the Appellant needs to hear the request in Spanish. This is after the Department's denial notice. The Appellant's AREP failed to provide a signal item from the last W-1348LTC verification list. Had she done so, the Department would have continued to send W-1348LTC's requesting verification still needed to process the application and would have kept the application open. The Department would

have certainly sent the W-1348LTC request in Spanish had the AREP made the request. The Department received no such request during the application process.

DECISION

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



Miklos Mencseli
Hearing Officer

C: Lisa Wells, Operations Manager, Hartford DSS R.O. # 10
[REDACTED], Genesis HCC

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 Legal Counsel, Regulations, and Administrative Hearings, 25 Sigourney Street, Hartford, CT 06106.

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 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.