

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#: 538995

NOTICE OF DECISION

PARTY

██████████
██████████
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██████████

PROCEDURAL BACKGROUND

The Department of Social Services (“Department”) sent ██████████ ██████████ (“Appellant”) a notice denying his application for Long Term Care (“LTC”) Medicaid benefits because he failed to provide the requested items of verification in order for the Department to determine program eligibility.

On ██████████ 2013, the Appellant requested an administrative hearing to contest the Department’s denial of his Medicaid application.

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

On ██████████ 2013, OLCRAH issued a notice rescheduling the hearing to ██████████ 2013.

On ██████████ 2013, 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 Daughter/Power of Attorney
Mrs. Rosko, Department's representative
Pamela J. Gonzalez, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether the Department correctly denied the Appellant's Medicaid application because he failed to submit the requested verification needed to determine program eligibility.

FINDINGS OF FACT

1. On ██████████ 2013, the Department received the Appellant's LTC Medicaid application. (W-1F Application – Department's exhibit H)
2. On ██████████, 2013, the Department sent to the Appellant a Form W-1348 requesting that he provide the following verifications by ██████████ 2013: clarification of the circumstances of the transfer of ownership of real estate located at ██████████, a complete history for the Bank of America checking account ending in ██████████, CD account ending in ██████████ and documentation of transactions over \$5,000.00. (Form W-1348 – Department's exhibit F)
3. The Department received some but not all of the requested items of verification and on ██████████ 2013, the Department issued to the Appellant a W-1348 Form requesting the following items of verification: information pertaining to Bank of America accounts ending in ██████████, and ██████████ information pertaining to the transfer of ownership of real estate located at ██████████, a complete history for the Bank of America money market savings account ending in ██████████ and CD account ending in ██████████ for the period ██████████/07 – current, proof for the following transactions: ██████████/11 \$23,360.93 deposit and \$20,000.00 withdrawal from Bank of America from checking account ending in ██████████. The requested verifications were due to be returned to the Department by ██████████ ██████████ 2013. (Form W-1348 – Department's exhibit F)
4. On ██████████ 2013, the Appellant's daughter telephoned the Department and asked for an extension of the deadline by which to submit the requested verifications. The Department extended its deadline to ██████████ 2013. (Department's representative's testimony)

5. On [REDACTED] 2013, the Department sent to the Appellant a W-1348 Form requesting outstanding items of verification. (Department's representative's testimony)
6. On [REDACTED] 2013, the Department sent to the Appellant a Form W-1348 asking that he provide the following items of verification: Bank of America statements for account ending in [REDACTED] from [REDACTED]/07 – [REDACTED] 13, proof of the following transactions from Bank of America account ending in [REDACTED]: [REDACTED] 11 deposit of \$23,360.93 and [REDACTED]/11 withdrawal of \$20,000.00, information pertaining to the transfer of real estate located at [REDACTED] [REDACTED]. The requested information was due to be returned to the Department by [REDACTED] 2013. (Form W-1348 – Department's exhibit F)
7. On [REDACTED] 2013, the Department granted the Appellant's daughter's request for a two-week extension of the deadline by which to supply the requested information. The deadline was extended until [REDACTED] 2013. (Department's representative's testimony)
8. On [REDACTED] 2013, the Department telephoned the Appellant's daughter and left a voicemail message stating that the deadline by which to provide the remaining items of verification was extended to [REDACTED], 2013. (Department's representative's testimony)
9. The Department did not receive the outstanding items of verification by [REDACTED] [REDACTED] 2013. Specifically, it did not receive Bank of America statements, verification of the specifics of the [REDACTED] 2011 deposit of \$23,360.93 and withdrawal of \$20,000.00, and information regarding the transfer of real estate located at [REDACTED]. (Department's representative's testimony, Hearing record)
10. On [REDACTED] 2013, the Department denied the Appellant's application for LTC Medicaid. (Eligibility Management System NARR screen print – Department's exhibit A)

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) Section 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 1015.05.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.
4. The Department correctly issued W-1348 forms to the Appellant to advise him of what was required in order to determine eligibility for Medicaid benefits.
5. Subsection (a) of section 17b-261a of the Connecticut General Statutes provides that any transfer or assignment of assets resulting in the imposition of a penalty period “shall be presumed to be made with the intent, on the part of the transferor or transferee, to enable the transferor to obtain or maintain eligibility for medical assistance. This presumption may be rebutted only by clear and convincing evidence that the transferor’s eligibility or potential eligibility for medical assistance was not a basis for the transfer or assignment.”
6. The Department uses the policy contained in Chapter 3029 of the Uniform Policy Manual to evaluate asset transfers if the transfer occurred on or after February 8, 2006. UPM § 3029.03.
7. There is a period established, subject to the conditions described in chapter, 3029 during which institutionalized individuals are not eligible for certain Medicaid services when they or their spouses dispose of assets for less than fair market value on or after the look-back date specified in UPM 3029.05(C). This period is called the penalty period, or period of ineligibility. UPM § 3029.05(A).
8. The look-back date for transfers of assets is the date that is 60 months before the first date on which both the following conditions exist: 1) the individual is institutionalized; and 2) the individual is either applying for or receiving Medicaid. UPM § 3029.05(C).
9. The Appellant quit claimed real estate to his daughter for \$1.00 on [REDACTED] 2010, during the look-back period.
10. The Appellant did not timely provide the requested information to the Department to establish eligibility for Medicaid benefits.
11. UPM Section 1505.40.B.1.c provides that the applicant's failure to provide required verification by the processing date causes one or more members of the assistance unit to be ineligible if the unverified circumstance is a condition of eligibility.

12. UPM 1540.05.D.1 provides that 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:
 - a. income amounts;
 - b. asset amounts.
13. UPM Section 1555.10 A.1.2 provides that under certain conditions, good cause may be established if an assistance unit fails to timely report or verify changes in circumstances and the delay is found to be reasonable. If good cause is established, the unit may be given additional time to complete required actions without loss of entitlement to benefits for a current or retroactive period.
14. Good cause for failing to provide the requested information was not established.
15. The Department correctly denied the Appellant's Medicaid application for failure to provide information necessary to determine eligibility.

DISCUSSION

The Appellant's daughter testified that it was difficult to obtain the requested items of verification for various reasons. She explained that the Appellant had been residing outside of Connecticut during the look-back period. He was married until 2010 when he became divorced from his wife. He subsequently became ill and needed assistance with his affairs. During the look-back period, the Appellant had many bank accounts which he constantly opened and closed. She stated that it was very difficult to trace back so much activity and that the bank was slow to respond. She testified that it wasn't until two days prior to the hearing that she received the last of the requested bank statements.

After reviewing the testimony and the evidence presented, I find that the Department afforded the Appellant ample opportunity to provide the documentation needed to establish eligibility for Medicaid. Despite the sad circumstances involved here, I find no error with the Department's ultimate denial on [REDACTED] 2013. The Appellant's daughter stated that following receipt of the denial notice, she did not provide any additional information to the Department as she was waiting for the hearing.

DECISION

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

Pamela J. Gonzalez

Pamela J. Gonzalez
Hearing Officer

Copy: Marva Perrin, Operations Manager, R.O. #60, Waterbury

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.