

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 # 557520

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████ 2013, the Department of Social Services (the "Department") issued a notice to ██████████, ("the Appellant") granting his ██████████ 2013 application for Medicaid Long Term Care benefits effective ██████████ 2012.

On ██████████ 2013, the Appellant requested an administrative hearing to contest the Department's decision to deny certain months of benefits and requested that the Department grant benefits back to ██████████ 2012.

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, 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 Conservator
Debbie Smeriglio, Social Worker Masonic Care at Newtown
Donna Rousome, Manager Medicaid Expeditor, Masonicare at Newtown
Barbara Brunner, Department's Representative
Pamela J. Gonzalez, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether the Department correctly granted the Applicant's long term care Medicaid benefits effective [REDACTED] 2012.

FINDINGS OF FACT

1. The Appellant entered Masonicare at Newtown for long-term placement in [REDACTED] 2007. (Hearing record)
2. The Appellant requires total care and is non-verbal. (Hearing record)
3. On [REDACTED] 2007, the Appellant's wife agreed to be responsible for all paperwork including applications and redeterminations of Medicaid eligibility. (Resident Admission Agreement Form- Appellant's exhibit II)
4. Upon admission to the long-term care facility, the Appellant's wife applied for Medicaid for the Appellant and it was granted. (Hearing record)
5. The Appellant's wife was responsible for the Appellant's paperwork including redeterminations of his Medicaid eligibility until [REDACTED] 2011. (Redetermination Forms – Appellant's exhibit IV)
6. A redetermination became due, was not completed, and the Appellant's Medicaid was discontinued effective [REDACTED] 2011. (Hearing record)
7. On [REDACTED], 2012, Masonicare learned that the Appellant's Medicaid had been discontinued. (Masonicare - Manager Medicaid Expeditor's testimony)
8. On [REDACTED] 2012, the facility began trying to contact the Appellant's wife regarding the need to re-establish eligibility for Medicaid but attempts were unsuccessful. (Masonicare - Manager Medicaid Expeditor's testimony)
9. From [REDACTED] 2012 forward, the Appellant's wife failed to cooperative with the facility. She did not respond to the facility attempts to contact her. (Masonicare - Manager Medicaid Expeditor's testimony)
10. In [REDACTED] 2012, the Appellant's wife filed for a divorce from the Appellant. The divorce was final in [REDACTED] 2012. (Dissolution of Marriage Decree – Appellant's exhibit III)
11. The process to have a conservator appointed by the Probate Court took until [REDACTED] 2013 to complete. (Masonicare - Manager Medicaid Expeditor's testimony)

12. On [REDACTED] 2013, [REDACTED] was appointed as the Appellant's Conservator of Person and of Estate. (Appointment of Conservator Decree – Department's exhibit 4)
13. On [REDACTED] 2013, the Appellant's conservator applied for long-term care Medicaid for him. (Page 1 of Form W-1F – Department's exhibit 1)
14. On [REDACTED] 2013, the Department granted the Appellant's application for long-term care Medicaid effective the first month of the three-month retroactive period, of [REDACTED] 2012. (Notice of grant dated [REDACTED] 2013 – Department's exhibit 2)

CONCLUSIONS OF LAW

1. Connecticut General Statutes §17b-2 provides in part that the Commissioner is authorized to administer the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Uniform Policy Manual ("UPM") § 1505.10(B) provides in part, that individuals who desire to obtain aid must file a formal request for assistance. The formal request must be made in writing on the application form. At a minimum, the following information must be presented: the full name and address of the applicant and the signature of the applicant, caretaker relative or other individual who is requesting assistance on behalf of the applicant. The application may be submitted in person or by mail.
3. UPM § 1505.10(D)(1) states, For AFDC and AABD, and MA applications, except for the Medicaid Coverage Groups noted below in 1510.10D2, the date of application is considered to be the date that a signed application form is received by any office of the Department.
4. The Department correctly determined that the Appellant applied for Medicaid on [REDACTED], 2013.
5. UPM § 1560.10 provides the beginning date of assistance for Medicaid may be one of the following:
 - A. the first day of the first, second, or third month immediately preceding the month in which the Department receives a signed application when all non-procedural eligibility requirements are met and covered services are received at any time during that particular month; or
 - B. the first day of the month of application when all non-procedural eligibility requirements are met during that month; or
 - C. the actual date in a spend-down period when all non-procedural eligibility requirements are met. For the determination of income eligibility

- in spend-down, refer to Income Eligibility Section 5520; or
- D. the first calendar month following the month in which an individual is determined eligible when granted assistance as a Qualified Medicare Beneficiary (Cross Reference: 2540.94). The month of eligibility determination is considered to be the month that the Department received all information and verifications necessary to reach a decision regarding eligibility.
6. The Department correctly determined that the Appellant is eligible for Medicaid effective the first day of the third month preceding the application month of [REDACTED] 2013, or [REDACTED] 2012.

DISCUSSION

The Appellant requests that his Medicaid application be granted retroactive to [REDACTED] 2012. He asks that an administrative exception be made for him due to the unfortunate set of circumstances involved.

I have reviewed the facts of this case and the pertinent regulations and I find no provision that allows Medicaid to be granted prior to the first day of the third month preceding the application date.

I have no authority to grant an exception to the regulations and I find that the Department properly granted Medicaid effective [REDACTED] 2012.

DECISION

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

Pamela J. Gonzalez

Pamela J. Gonzalez
Hearing Officer

Copy: Alexis Kiss, Operations Manager, DSS R.O. # 31, Danbury

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.