

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

██████████ 2014
Signature Confirmation

Client ID #: ██████████
Hearing ID #: 502194

NOTICE OF DECISION

PARTY

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██████████
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██████████

PROCEDURAL BACKGROUND

On ██████████ 2013, the Department of Social Services (the "Department") received a letter from Burgeon Legal Group requesting an appeal of the Department's delay in processing ██████████ ██████████ (the "Appellant") application for Long Term Care assistance ("LTC") filed on ██████████, 2012.

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

On ██████████, 2013, OLCRAH, at the Appellant's request, issued a notice rescheduling the administrative hearing for ██████████ 2013.

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On [REDACTED] [REDACTED] 2013, OLCRAH, at the Appellant's request, issued a notice rescheduling the administrative hearing for [REDACTED] 2013.

On [REDACTED] [REDACTED], 2013, OLCRAH, at the Appellant's request, issued a notice rescheduling the administrative hearing for [REDACTED] 2014.

On [REDACTED] [REDACTED] 2014, OLCRAH, at the Appellant's request, issued a notice rescheduling the administrative hearing for [REDACTED] 2014.

On [REDACTED] [REDACTED], 2014, OLCRAH, at the Appellant's request, issued a notice rescheduling the administrative hearing for [REDACTED] 2014.

On [REDACTED] 2014, in accordance with sections § 17b-60, 17b-61 and § 4-176e to § 4-184, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing.

The following individuals were present at the hearing:

[REDACTED], Appellant's Attorney by telephone
[REDACTED] Power of Attorney for the Applicant (POA) by telephone
Diane Wood, Department's Representative
Christopher Turner, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether the Department's decision to delay processing of the Appellant's Medicaid application is correct.

FINDINGS OF FACT

1. On [REDACTED] 2012, the Appellant applied for Medicaid Long Term Care ("LTC") assistance. (Exhibit 1: W-1F Application; Exhibit 13: Department's narrative; Hearing summary)
2. On [REDACTED] [REDACTED] 2012, the Department sent the Appellant's POA an Application Verification List ("W-1348") requesting a Notification of Annuity Requirements (form "W-1J") to be signed. The Department also requested Sovereign Bank Account information, burial contract and POA information. (Exhibit 14: Copy of W-1348 dated [REDACTED]/12; Exhibit 13; Hearing summary)
3. On [REDACTED] [REDACTED] 2012, the Department received the requested information. (Exhibit 15: Signed W-1J dated [REDACTED]/12; Exhibit 13)

4. On [REDACTED] 2013, the Department submitted a referral to Principal Attorney Dan Butler requesting an evaluation of the Appellant's Lincoln Financial Annuity ("LFA"). (Exhibit 2: Form W-765; Exhibit 13; Hearing summary)
5. On [REDACTED] 2013, the Department received a response from Attorney Butler. Attorney Butler requires a copy of the LFA contract in order to complete his evaluation. (Exhibit 13; Hearing summary)
6. On [REDACTED] 2013, the Department e-mailed the Appellant's attorney an updated requirements list. (Exhibit 13)
7. On [REDACTED] 2013, the Department's representative spoke with the Appellant's POA concerning the Appellant's LFA. (Exhibit 13)
8. On [REDACTED] [REDACTED] 2013, the Appellant's attorney informed the Department's representative that she is continuing to work on obtaining a copy of the LFA. The Department's representative extended the due date to [REDACTED]/13. (Exhibit 13)
9. On [REDACTED] 2013, the Department's representative e-mailed the Appellant's attorney an Annuities and Your Eligibility for Long-Term Care Medical Services (form "W-1540") for her signature with a due of date [REDACTED]/13. (Exhibit 13)
10. On [REDACTED] 2013, the Department's representative received a response from Attorney Butler. The LFA "rolled over" on [REDACTED] 12 to a gross annuitized monthly benefit. The LFA is now considered to have an income stream. Attorney Butler advised the Appellant to sell the LFA and seek three bids. (Exhibit 13)
11. On [REDACTED] 2013, the Department's representative sent the Appellant's POA a W-1348LTC requesting a copy of the Appellant's LFA contract, clarification of \$18,835.40 Webster Bank transaction, Clarification of four separate Sovereign Bank deposits, verification of \$25,0000 withdrawal from New Alliance Bank on [REDACTED]/07, (Exhibit 3: W-1348 dated [REDACTED]/13; Exhibit 13)
12. On [REDACTED], 2013, the Department received the complete LFA contract and sent the LFA contract to OLCRAH for review. (Exhibit 13)
13. On [REDACTED] 2013, the Department's representative sent a W-1348 to the Appellant's POA requesting deposit and withdrawal information on Webster Bank account # [REDACTED] with a [REDACTED]/13 due date. (Exhibit 13)
14. On [REDACTED] 2013, the Department received the Webster Bank account information. (Exhibit 13)

15. On [REDACTED] 2013, the Department's representative sent the Appellant's POA and Attorney a W-1348 requesting that the Appellant's LFA be sold and three offers be provided to the Department. Due date of [REDACTED]/13 given. (Exhibit 4: W-1348 dated [REDACTED]/13; Exhibit 13)
16. On [REDACTED] 2013, the Department received some of the requested information. Due date extended to [REDACTED]/13. (Exhibit 13)
17. On [REDACTED] 2013, Attorney Butler advised the Department's representative to instruct the Appellant's Attorney to accept J.G. Wentworth's offer to buy the Appellant's LFA. Present value of LFA is \$52,750. (Exhibits 6 & 7: E-mail string between parties)
18. On [REDACTED] 2013, the Department's representative reviewed the submitted information and issued a W-1348 requesting verification of LFA purchase by J.G. Wentworth and information on a Sovereign Bank account gross distribution as well as a Universal Plans gross distribution. Due date of [REDACTED]/13 given. (Exhibit 8: 1348; Exhibit 13)
19. On [REDACTED] 2013, Department's representative left a voice mail with the Appellant's attorney. (Exhibit 13)
20. On [REDACTED] 2013, a Department representative faxed a copy of the W-1348 dated [REDACTED]/13 to the Appellant's attorney. (Exhibit 13)
21. On [REDACTED] 2013, the Department's representative spoke with the Appellant's attorney concerning the LFA. (Exhibit 13)
22. On [REDACTED] 2013, the Department's representative spoke with the Appellant's attorney concerning the Sovereign Bank and Universal Plans' gross distributions. (Exhibit 13)
23. On [REDACTED] [REDACTED] 2013, the Department's representative spoke with the Appellant's attorney concerning the processing of the J.G. Wentworth transaction. The Appellant's attorney requested and was given an extension of time until [REDACTED]/13. (Exhibit 13; Hearing summary)
24. On [REDACTED] [REDACTED] 2013, the Department's representative spoke with the Appellant's attorney concerning the processing of the J.G. Wentworth transaction. The Appellant's attorney requested and was given an extension of time until [REDACTED]/13. (Exhibit 13)
25. On [REDACTED] 2013, the Appellant's attorney e-mailed an extension request. An extension was granted until [REDACTED] 13. (Exhibit 13)

26. On [REDACTED] 2013, the Appellant's attorney requested an extension of time. An extension was granted until [REDACTED]/13. Awaiting J.G. Wentworth transaction to close. (Exhibit 13)
27. On [REDACTED] 2013, the Appellant's attorney requested an extension of time. An extension was granted until [REDACTED]/13. Awaiting finalization of J.G. Wentworth transaction. (Exhibit 13)
28. On [REDACTED] 2013, the Appellant's attorney requested an extension of time. An extension was granted until [REDACTED]/13. Awaiting finalization of J.G. Wentworth transaction. (Exhibit 13)
29. On [REDACTED] 2013, an extension of time was given until [REDACTED]/13 for submission of the J.G. Wentworth transaction. A voice mail was left with the Appellant's attorney. (Exhibit 13)
30. On [REDACTED] 2013, an extension of time was given. New due date is [REDACTED]/13. (Exhibit 13)
31. On [REDACTED] 2013, the Appellant's attorney phoned the Department's representative explaining the J.G. Wentworth transaction was still being processed. An extension was given until [REDACTED]/13. (Exhibit 13)
32. On [REDACTED] 2013, the Appellant's attorney phoned the Department's representative explaining the J.G. Wentworth transaction was still being processed. An extension was given until [REDACTED]/13. (Exhibit 13)
33. On [REDACTED] 2013, the Department received an e-mail from the Appellant's attorney confirming the completion of J.G. Wentworth purchase of the Appellant's LFA. (Exhibit 9: E-mail dated [REDACTED]/13; Exhibit 10: E-mail dated [REDACTED]/13)
34. On [REDACTED], 2013, the Department received in part the requested Sovereign and Webster Bank account information. A 1348 was sent to the Appellant's attorney for the time period of [REDACTED]/13 through [REDACTED]/13. The Department's representative also sent faxes to Sovereign and Webster Bank requesting the same. (Exhibit 13)
35. On [REDACTED] 2014, the Department granted the Appellant's application for LTC. effective [REDACTED], 2013. (Exhibit 13, Hearing record)

CONCLUSIONS OF LAW

1. Section 17b-260 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the Medicaid program.

2. Uniform Policy Manual § 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 (cross reference: 1555).
3. UPM § 1505.35 (C) (1) provides that the following promptness standards are established as maximum time periods for processing applications: forty-five calendar days for; AFDC applicants and AABD or MA applicants applying on the basis of age or blindness.
4. UPM 1505.35 (D) (2) provides that the Department determines eligibility within the standard of promptness for the AFDC, AABD, and MA programs except when the verification needed to establish eligibility is delayed and one of the following is true: the client has good cause for not submitting the verification by the deadline; or the client has been granted a 10 day extension to submit verification which has not elapsed; or the Department assumed responsibility for obtaining verification and has had less than 10 days; or the Department has assumed responsibility for obtaining verification and is waiting for material from a third party.
5. UPM § 1505.35 (B) provides that the Department notifies applicants of any actions taken on applications and when applications are not acted upon within the established time limits.
6. The Department correctly notified the authorized representative of a delay in processing the application because it did not have enough information to determine eligibility.
7. 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.
8. UPM 1505.40 (B) (4) (a) provides that good cause for delaying the processing of an application exists when the eligibility determination is delayed beyond the AFDC, AABD or MA processing standard because of unusual circumstances beyond the applicant's control, and one of the following conditions exists: eligibility cannot be determined; or determining eligibility without the necessary information would cause the application to be denied. If the eligibility determination is delayed, the Department continues to process the application until: the application is complete or good cause no longer exists.
9. The Department correctly delayed processing the application because eligibility could not be determined and the authorized representative had good cause for not supplying the requested information.

10. UPM § 1505.35 (C) (1) (c) (2) provides that the following promptness standards are established as maximum time periods for processing applications: (c) forty five calendar days for AABD or medical applicants applying on the basis of age or blindness.
11. UPM § 1505.35 (C) (2) provides that the first day of the processing period begins on the day following the date of application.
12. The Department correctly determined the processing period began on ██████████, 2012.
13. UPM § 1505.35 (D) (2) provides that the Department determines eligibility within the standard of promptness for the AFDC, AABD, and medical programs except when verification needed to establish eligibility is delayed and one of the following is true:

The client has good cause for not submitting verification by the deadline; or

 - a. The client has been granted a 10 day extension to submit verification which has not elapsed; or
 - b. The Department has assumed responsibility for obtaining verification and has had less than 10 days; or
 - c. The Department has assumed responsibility for obtaining verification and is waiting for material from a third party.
14. The Department properly granted the Appellant many 10 day extensions during the eligibility process.
15. UPM § 1505.40 (A) (4) (c) provides that the Department may complete the eligibility determination at any time during the application process when the application process is complete and all required verification has been obtained.
16. The Department made an eligibility determination within the standard of promptness upon receipt of all required verifications.

DISCUSSION

Based on departmental policy, the Department makes an eligibility determination upon receipt of all required verifications. Although there were processing delays from the date of application for various reasons, the Department's representative testified that the Appellant's application has been granted. As such, the point is moot. There is no relief to be offered the Appellant.

DECISION

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

Christopher Turner

Christopher Turner
Hearing Officer

Pc: Albert Williams, Operations Manager Hartford

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.