

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 # ██████████
Request # 562290

NOTICE OF DECISION AFTER RECONSIDERATION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2013, the Department of Social Services (the “Department”) sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) denying her application for Medicaid benefits.

On ██████████, 2013, the Appellant’s attorney requested an administrative hearing to contest the Department’s decision to deny the Appellant’s application for Medicaid.

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

On ██████████ ██████████ 2013, the Appellant’s attorney requested that the administrative hearing be rescheduled.

On ██████████ ██████████ 2013, the OLCRAH issued a notice rescheduling the administrative hearing for ██████████ 2014.

On ██████████ 2014, 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:

██ for the Appellant

████████████████████ for the Appellant
Dr. Ronald Szabo, Physician for Appellant's spouse
████████████████████, Power of Attorney ("POA") for Appellant
████████████████████, POA's spouse
████████████████████, son of Appellant's spouse
Liza Perez, Department's Representative
Roberta Gould, Hearing Officer

On ██████████ 2014, the Hearing Officer issued a decision, which found that the Department correctly denied the Appellant's application for Medicaid assistance for failure to submit information.

On ██████████, 2014, the Appellant requested reconsideration of the hearing officer's decision.

On ██████████, 2014, the Director of OLCRAH granted reconsideration for the purpose of reviewing whether the requested verification of bank records was necessary to determine eligibility and whether the Department should have denied the application based on excess assets.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Appellant's application for Medicaid due to failure to provide information needed to establish eligibility was correct.

FINDINGS OF FACT

1. The Appellant was admitted to Mapleview Manor on ██████████ 2011. (Hearing record)
2. As of ██████████, 2011, the Appellant and her spouse exceeded the asset limits for Medicaid assistance. (Exhibit 14: W-1F Application for assistance)
3. On ██████████ 2012, the Department received an application for Medicaid Long Term Care Assistance for the Appellant with no income or assets information provided. The Appellant's then-attorney, ██████████ indicated that the Appellant was well over the asset limit and submitted a request for a diversion of assets for the Appellant's community spouse at the time of application. (Exhibit 1: W-1F Application form, Exhibit 12: Attorney letter and Hearing summary)
4. The Department did not complete an assessment of spousal assets. (Appellant's Attorney's testimony and Department's testimony)

5. On [REDACTED] 2012, the Department received a letter from [REDACTED] the “attorney”) indicating that they now represented the Appellant with respect to her application for Medicaid assistance. (Exhibit 2: Letter dated [REDACTED]/2012 and Hearing summary)
6. On [REDACTED] 2013, the Department sent to the Appellant’s attorney a W-1348LTC request for verifications form requesting a completed application form and all bank account information. The due date for the information was [REDACTED] 2013. (Exhibit 3: Application verification list and Hearing summary)
7. On [REDACTED] 2013, and [REDACTED] 2013, the Department received some of the requested verifications from the attorney. (Hearing summary)
8. On [REDACTED] 2013, the Department reviewed the information that was received for the Appellant’s application for Medicaid assistance. (Hearing summary)
9. On [REDACTED] 2013, the Department sent to the Appellant’s attorney a W-1348LTC request for verifications of annuities from Genworth and Prudential, bank account information for a Bank of America account, Money Market accounts, Certificates of Deposit, People’s Bank account, Webster Bank account, TD Bank account, CSE Credit Union, as well as copies of checks for all transactions over \$5,000.00. The due date for the verifications was [REDACTED] 2013. (Exhibit 4: Application verification list and Hearing summary)
10. On [REDACTED] 2013, and [REDACTED], 2013, the Department received some of the requested verifications. (Exhibit 5: People’s Bank statement and Exhibit 6: Letter from [REDACTED])
11. On [REDACTED] 2013, the Department sent the Appellant’s attorney a new W-1348LTC request for verifications of People’s Bank account statements for the period of [REDACTED] 2011, through [REDACTED], 2012, and copies of checks for all transactions over \$5,000.00. The due date for the verifications was [REDACTED] 2013. (Exhibit 7: Application verification list and Hearing summary)
12. The Department did not receive any reply or documentation from the Appellant’s attorney in response to the Department’s [REDACTED] 2013, request for information. (Appellant’s Attorney’s testimony, Department’s testimony and Hearing summary)
13. The documentation requested by the Department on [REDACTED] 2013, was not required to determine whether or not the Appellant was eligible for

Medicaid assistance because the Appellant and her spouse already exceeded the asset limits as of her date of institutionalization on [REDACTED] 2011. (Exhibit 14)

14. On [REDACTED] 2013, the Department denied the Appellant's application for failure to provide documentation to determine eligibility. (Exhibit 8: Notice of Denial, Exhibit 9: Case narrative and Hearing summary)

CONCLUSIONS OF LAW

1. Section 17b-2 and § 17b-260 of the Connecticut General Statutes, authorizes the Department of Social Services to administer the Medicaid program pursuant to Title XIX of the Social Security Act.
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. 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.
5. UPM § P-1540.25 provides that if the unverified factor or circumstance does not directly cause ineligibility but may potentially affect the benefit level, do not give consideration to it when determining eligibility and calculating the benefit.
6. On [REDACTED] 2013, the Department incorrectly denied the Appellant's application for failure to submit information that was not necessary to establish eligibility.
7. UPM § 1507.05(A)(1) provides that the Department provides an assessment of assets:
 - a. at the request of an institutionalized spouse or a community spouse:
 - (1) when one of the spouses begins his or her initial continuous period of

- institutionalization; and
 - (2) whether or not there is an application for Medicaid; or
 - b. at the time of application for Medicaid whether or not a request is made.
8. At the time of application for assistance the Department incorrectly failed to complete an assessment of the Appellant's and her community spouse's assets.

DISCUSSION

In his request for reconsideration the Appellant's attorney and authorized representative argues that bank information requested by the Department was not necessary to determine eligibility. The W-1348 Verification Request asked for bank statements from [REDACTED] 2011, through [REDACTED], 2012, and copies of checks for all transactions over \$5,000.00. As of the Appellant's date of institutionalization on [REDACTED], 2011, the Appellant and her spouse were over the assets limits for Medicaid assistance. The Department's testimony is not clear as to why these bank statements were needed, other than to look for transfers. At the time of application, the Appellant's attorney requested that an assessment of spousal assets be completed. Regulations provide that an assessment of assets should be completed at the time of application whether or not a request is made. The Department should have denied the Appellant as over assets, instead of for failure to provide, therefore affording the Appellant a hearing for an increased Community Spouse Protected Amount ("CSPA"). Once a CSPA hearing was held and, if increased at that time, the Department could review the case for transfers.

DECISION

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

ORDER

1. The Department shall reopen the Appellant's application for Medicaid effective [REDACTED] 2012, and continue the eligibility process.
2. The Department shall complete an assessment of assets for the Appellant and her community spouse.
3. No later than [REDACTED] 2014, the Department will submit to the undersigned verification of compliance with this order.

Roberta Gould

Roberta Gould
Hearing Officer

Pc: Albert Williams, Field Operations Manager, Hartford Regional Office
Musa Mohamud, Field Operations Manager, Hartford Regional Office
[REDACTED] POA for Appellant

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.