

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 #586458

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2013, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") granting her Long Term Care benefits effective for ██████████ 2013.

On ██████████ 2014, the Appellant requested an administrative hearing to contest the effective date of the Long Term Care Medicaid benefits as determined by the Department.

On ██████████ 2014, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice scheduling the administrative hearing for ██████████ 2014.

On ██████████ 2014, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice rescheduling the administrative hearing for ██████████ 2014.

On ██████████ 2014, the Office of Legal Counsel, Regulations, and Administrative Hearings ("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:

██████████, Appellant's Representative, Son, Power of Attorney ("POA")
Anne Jasorkowski, Attorney for St. Mary's
Liza Perez, Department's Representative
Miklos Mencseli, Hearing Officer

The Appellant was not present.

STATEMENT OF THE ISSUE

The issue is the effective date of Long Term Care Medicaid benefits.

FINDINGS OF FACT

1. On ██████████ 2011, the Appellant applied for Medicaid for long term care assistance. The Appellant's son is the POA and contact person for the application. (Summary)
2. The Appellant is a resident of St. Mary's Home. (Summary, Testimony)
3. On ██████████ 2011, the Department sent the POA a W-1348 application requirement list form requesting information needed to process the Appellant's application. The Department noted on the form that Title XIX can only be granted for the months that assets are \$1600 or below. An attached sheet also stated to verify assets reduced to \$1600. The information was due by ██████████ 2011. (Summary, Exhibit B: Department's W-1348 dated ██████-11)
4. On ██████████ 2011, the Department having not received any mail or phone calls denied the Appellant's application as it did not receive the requested verifications. (Summary, Exhibit F: Department's case narrative screen printout)
5. On ██████████, 2011, the Department received some requested verifications by mail. (Summary, Exhibit F)
6. The Appellant's file with her original application was sent to the file room on ██████████ 2012. (Exhibit F)
7. The Department was unable to locate a box of verifications submitted by the Appellant's POA until ██████████ 2012. (Testimony)
8. On ██████████ 2012, the Department re-opened the Appellant's application back to the original application date of ██████████ 2011. (Summary, Exhibit F)

9. The Department was unable to locate the Appellant's original application after making requests for the Appellant's original case file. (Exhibit F)
10. On [REDACTED], 2013, St. Mary's Home emailed the Department a copy of the Appellant's [REDACTED] 2011 application. (Exhibit F)
11. On [REDACTED], 2013, the Department's worker spoke with the Appellant's POA informing him of the information still need, emailed the POA a copy of the W-1348 and gave a due date of a week for the verifications. (Summary, Exhibit F)
12. On [REDACTED], 2013, the Department sent the Appellant's POA an email stating he had until [REDACTED], 2013 to provided the requested information or the case would be denied. (Summary, Exhibit F)
13. On [REDACTED] 2013, the Department having not received requested information or contact from the POA denied the Appellant's application. (Summary, Exhibit F)
14. On [REDACTED] 2013, the Appellant's POA called the Department. He stated he was unable to open the emails sent by the Department. In addition he was out of the state. He had the requested information and would drop it off at the regional office. (Summary, Exhibit F)
15. On [REDACTED] 2013, the Appellant's POA submitted the requested information. (Summary, Exhibit F)
16. On [REDACTED] 2013, the Department re-opened the Appellant's application back to [REDACTED] 2013, the date the Department received the information submitted by the Appellant's POA that was requested. (Summary, Exhibit F)
17. On [REDACTED] 2013, the Department reviewed the box of information submitted by the Appellant's POA on [REDACTED] 13. The Department still had not located the Appellant's original case file. (Summary, Exhibit F)
18. The Department based on its review still needed additional verifications in order to determine eligibility for the Appellant. (Summary, Exhibit F)
19. On [REDACTED] 2013, the Department sent the POA a W-1348 application requirement list form requesting information needed to process the Appellant's application. The Department noted on the form that Title XIX can only be granted for the months that assets are \$1600 or below. An attached sheet also stated to verify assets reduced to \$1600. The information was due by [REDACTED], 2013. (Summary, Exhibit C: Department's W-1348 dated [REDACTED]-13)

20. The Department received some requested information on [REDACTED] 0213, [REDACTED] 2013 and [REDACTED], 2013. (Summary, Exhibit F)
21. On [REDACTED], 2013, the Department sent the POA a W-1348 application requirement list form requesting information needed to process the Appellant's application. The Department noted on the form that Title XIX can only be granted for the months that assets are \$1600 or below. The information was due by [REDACTED] 2013. (Summary, Exhibit D: Department's W-1348 dated [REDACTED]-13)
22. The Department received some requested information on [REDACTED] 0213 and [REDACTED] 2013. (Summary, Exhibit F)
23. On [REDACTED] 2013, the Department sent the POA a W-1348 application requirement list form requesting information needed to process the Appellant's application. The Department noted on the form that Title XIX can only be granted for the months that assets are \$1600 or below. The information was due by [REDACTED] 2013. (Summary, Exhibit E: Department's W-1348 dated [REDACTED]-13)
24. On [REDACTED] 2013, the Department received verifications from the Appellant's POA. (Summary, Exhibit F)
25. The Department has the Appellant's Bank of America bank statements for accounts; [REDACTED] and [REDACTED] for the period of [REDACTED] 2011 through [REDACTED] 2013. (Exhibit G: Bank of America statements)
26. The Department has the Appellant's resident account statement from St. Mary's Home for the period of [REDACTED] 2011 through [REDACTED] 2013. (Exhibit H: resident account)
27. The Department completed a Monthly Asset Worksheet for the Appellant for the period of [REDACTED] 2011 through [REDACTED] 2013. The Department determined a total monthly amount based on the Appellant's Bank of America and resident accounts. (Exhibit I: Monthly Asset Worksheet)
28. On [REDACTED] 2013, the Department granted the Appellant Long Term Medicaid benefits effective for [REDACTED] 2013, with an application date of [REDACTED] 2013. The Department granted a six month diversion for the prior months to the application date. (Summary, Exhibit F)
29. The Appellant or the Appellant's POA did not complete a new application. The only application the Appellant has ever filed for Long Term Care is dated [REDACTED] 2011. (Testimony)

30. The Department did not request the Appellant to file a new application when the Department re-opened the application on [REDACTED] 2012 and [REDACTED] 2013. (Testimony)
31. The Appellant's POA was not informed the application would only be granted from the re-open date of [REDACTED] 2013. (Testimony)
32. The Appellant is below the Medicaid asset limit for the months of [REDACTED] 2011 and [REDACTED] 2012 based on the Department's monthly asset worksheet. (Testimony, Exhibit I)
33. The Department only determined eligibility for three months retrospectively from the re-opened date of [REDACTED] 2013. (Testimony)
34. The Appellant is seeking eligibility months from the original application date of [REDACTED] 2011 up to the current grant date of [REDACTED] 2012. (Testimony)

CONCLUSIONS OF LAW

1. Section 17b-2 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) § 1505.10 (D) (1) provides for date of application. For AFDC, AABD and MA applications, except for the Medicaid coverage groups noted below in 1510.10 D.2, the date of application is considered to be the date that a signed application form is received by any office of the Department.
3. The Appellant's application was received on [REDACTED] 2011.
4. UPM § 1505.45 (A)(2)(b)(1)(2) provides for reopening denied applications. A new application is required only if: the case is not reopened in the second thirty day period or a reopened case is denied a second time.
5. The Department denied the Appellant's application a second time on [REDACTED] 2013.
6. The Department failed to require the Appellant to file a new application for Long Term Care Medicaid benefits.
7. The Department incorrectly gave the Appellant a new application date of [REDACTED] 2013.

8. Uniform Policy Manual (UPM) § 4005.05 (B)(1) provides that the Department counts the assistance unit's equity in an asset toward the asset limit if the asset is not excluded by state or federal law and is either: available to the unit; or deemed available to the unit.
9. UPM § 4005.05 (B)(2) provides that under all programs except Food Stamps, the Department considers an asset available when actually available to the individual or when the individual has the legal right, authority or power to obtain the asset, or to have it applied for, his or her general or medical support.
10. UPM § 4005.10 provides that the Medicaid asset limit for a needs group of one is \$1,600.00 per month.
11. The Appellant is below the \$1,600.00 asset limit for the months of [REDACTED] 2011 and [REDACTED] 2012.
12. UPM § 4005.15 provides that in the Medicaid program at the time of application, the assistance unit is ineligible until the first day of the month in which it reduces its equity in counted assets to within the asset limit.
13. UPM § 1560.10 (A) provides for begin dates of Medicaid Assistance. The beginning date of assistance for Medicaid may be one of the following: 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 medical services are received at any time during that particular month.

DISCUSSION


The Appellant's POA was credible and convincing. He had the expectation that the Department was honoring the original application date of [REDACTED] 2011. The Department did not notify him that they were not honoring that date or have him file a new application. The only application the Department has is the [REDACTED] 2011 one. The Department reopened the application to the [REDACTED] 2011 on [REDACTED] 2012. If the Department did not intend to reopen the application on [REDACTED] 2013 back to [REDACTED] 2001, the Department should have made the Appellant's POA aware of this and required a new application to be filed. The Department shall determine the Appellant's eligibility from the original application date of [REDACTED] 2011. The Department will grant any eligible months the Appellant is below the asset limit. The Department will also adjust the Appellant's diversion to correspond with any changes.

DECISION

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

ORDER

1. The Department shall determine eligibility for the Appellant based on the application date of [REDACTED] 2011.
2. The Department shall determine if the Appellant meets the eligibility requirements for any months from [REDACTED] 2011 ongoing and grant eligibility.
3. No later than [REDACTED], 2014, the Department will provide to the undersigned proof of compliance with this order.



Miklos Mencseli
Hearing Officer

C: Albert Williams, Operations Manager, DSS R.O. #10 Hartford
Attorney Anne Jasorkowski

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.

