

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3725

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

Client ID # ██████████
Request # 610644

NOTICE OF DECISION

PARTY

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██████████
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PROCEDURAL BACKGROUND

On ██████████, 2014, the Department of Social Services (the "Department") sent ██████████ ██████████ (the "Appellant") a Notice of Action ("NOA") denying the Appellant's application for Long Term Care ("LTC") Medicaid benefits.

On ██████████, 2014, the Appellant's representative requested an administrative hearing to contest the Department's decision to deny the Appellant's application for Medicaid.

On ██████████ 2014, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling 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 Conservator
██████████, Village Crest, for the Appellant
Barbara Brunner, Department's Representative
Scott Zuckerman, Hearing Officer

The hearing record remained open for the submission of additional evidence. On ██████████ 2014, the hearing record closed.

STATEMENT OF THE ISSUE

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

FINDINGS OF FACT

1. The Appellant was admitted to Village Crest on [REDACTED] 2008. (Hearing Record)
2. On [REDACTED] 2012, the Appellant's representative received her appointment as Conservator. (Hearing Record)
3. On [REDACTED] 2013, the Department received an application for Long Term Care Medicaid Assistance for the Appellant. (Hearing Record)
4. On [REDACTED] 2013, the Department sent the Appellant's conservator a W-1348LTC, Verification We Need form requesting verifications that were needed to establish eligibility. The form requested that the Appellant reduce her countable assets to \$1600 or less. (Ex. 5: W-1348, [REDACTED] 2013)
5. On [REDACTED] 2013, the Department sent the Appellant's conservator a W-1348 requesting verifications that were needed to establish eligibility. The form requested that the Appellant reduce her countable assets to \$1600 or less. (Ex. 5: W-1348, [REDACTED]/13)
6. On [REDACTED] 2013, the Department discovered the Appellant is the owner of Merrill Lynch IRA accounts. (Ex. 3: Case Narrative [REDACTED]/13)
7. On [REDACTED] 2013, the Department sent the Appellant a W-1348LTC form requesting copies of statements for Merrill Lynch accounts # [REDACTED] and # [REDACTED], # [REDACTED], # [REDACTED] and # [REDACTED] and M & T bank accounts. (Ex. 5: W-1348, [REDACTED]/13)
8. On [REDACTED] 2013, the Appellant's conservator provided M & T Bank statements from 2008 and 2009. (Ex. 5: Letter from Conservator, [REDACTED] 13)
9. On [REDACTED] 2013, the Department sent the Appellant a W-1348LTC form requesting statements for the Merrill Lynch and M & T accounts. (Ex. 5: W-1348LTC, [REDACTED]/13)

10. On [REDACTED] 2013, the Appellant's conservator provided a statement from M & T bank for [REDACTED] 2013 through [REDACTED] 2013. (Ex. 5: Letter from Conservator, [REDACTED]/13)
11. On [REDACTED] 2013, the Appellant's conservator sent a letter to Merrill Lynch indicating she is representing the Appellant in the Department's request for statements for accounts # [REDACTED] and # [REDACTED], # [REDACTED], # [REDACTED] and # [REDACTED]. (Ex. A: Letter to Merrill Lynch, [REDACTED]/13)
12. On [REDACTED] 2013, the Department sent the Appellant a W-1348 LTC requesting statements from the Merrill Lynch and M & T bank accounts. (Ex. 5: W-1348LTC, [REDACTED]/13)
13. On [REDACTED] 2013, the Department sent the Appellant a W-1348 LTC requesting statements from the Merrill Lynch and M & T bank accounts. (Ex. 5: W-1348LTC, [REDACTED]/13)
14. On [REDACTED] 2013, the Appellant's conservator sent a letter to Merrill Lynch Account Maintenance Department requesting statements for the Merrill Lynch accounts. The letter included the Appellant's conservator's certificate of appointment as Conservator of Estate. (Ex. A: Letter to Merrill Lynch, [REDACTED]/13)
15. On [REDACTED] 2013, the Appellant's conservator provided to the Department M&T bank statements. (Ex. 5: Letter from the Conservator, [REDACTED]/13)
16. On [REDACTED] 2013, the Department sent the Appellant W-1348 LTC requesting additional information, including statements from the Merrill Lynch accounts. (Ex. 5: W-1348LTC, 7/13/13)
17. On [REDACTED] 2013, the Appellant's conservator provided to the Department additional M&T bank statements and indicated she is waiting for the Merrill Lynch statements. (Ex. 5: W-1348LTC, [REDACTED]/13)
18. On [REDACTED] 2013, Merrill Lynch received a request for statements. (Ex. C: Merrill Lynch phone records, [REDACTED] 13)
19. On [REDACTED] 2013, the Appellant's conservator called Merrill Lynch but could not speak to them without permission from the Appellant. (Ex. C: Merrill Lynch phone records, [REDACTED] 13)
20. On [REDACTED] 2013, the Appellant's conservator sent a letter to the Department regarding the status of the Merrill Lynch account and the issues encountered accessing the statements. (Ex. 5: Letter from the conservator, [REDACTED]/13)

21. On [REDACTED] 2013, the Department sent the Appellant's conservator a W-1348 requesting the Merrill Lynch statements. (Ex. 5: W-1348LTC, [REDACTED]/13)
22. On [REDACTED] 2013, Merrill Lynch notes that the conservator needs to fill out certain forms in order for distribution to occur. (Ex. C: Merrill Lynch phone records, [REDACTED]/13)
23. On [REDACTED] 2013, Merrill Lynch informs the Appellant's conservator that their legal department must look over the conservator's court documents. (Ex. C: Merrill Lynch phone records, [REDACTED]/13)
24. On [REDACTED] 2013, the Appellant's conservator provided additional bank statements from the M&T account and informed the Department she believed she was getting closer to obtaining the statements from the Merrill Lynch accounts. (Ex. 5: Letter from the Appellant's conservator, [REDACTED]/13)
25. On [REDACTED] 2013, the Department sent the Appellant's conservator a W-1348LTC requesting statements from the Merrill Lynch accounts and M&T bank statements. (Ex. 5: W-1348LTC, [REDACTED]/13)
26. On [REDACTED] 2013, the Appellant's conservator contacted Merrill Lynch to complete the distribution of funds from the accounts. (Ex. C: Merrill Lynch phone records, [REDACTED]/13)
27. On [REDACTED] 2013, the Appellant's conservator called Merrill Lynch regarding the accounts she is attempting to close. Merrill Lynch indicates that per court documents provided the Appellant is incapacitated. Merrill Lynch sends the conservator a form to complete. (Ex. C: Merrill Lynch phone records, [REDACTED]/13)
28. On [REDACTED] 2013, Merrill Lynch acknowledges the receipt of the paperwork and that problems exist with the form. (Ex. C: Merrill Lynch phone records, [REDACTED]/13)
29. On [REDACTED], 2013, the conservator speaks to Merrill Lynch indicating she will refax paperwork after making the updates. (Ex. C: Merrill Lynch phone records, [REDACTED]/13)
30. On [REDACTED] 2013, the Appellant's conservator sent a letter to the Department stating she was informed by Merrill Lynch they have all the paperwork needed to release the statements as prior forms were lost. (Ex. A: Letter from the Appellant's conservator, [REDACTED]/13)

31. On [REDACTED] 2013, the Appellant's conservator contacted Merrill Lynch regarding the status of the distribution and to request statements for the prior two years. She is informed a check was mailed on [REDACTED] 2013. (Ex. C: Merrill Lynch phone records, [REDACTED]/13)
32. On [REDACTED] 2013, the Appellant's conservator sent a letter to the Department regarding the status of the Merrill Lynch statements. The letter indicated she would be receiving them within seven days. (Ex. 5: Letter from the conservator, [REDACTED]/13)
33. On [REDACTED] 2013, the Appellant's conservator contacted Merrill Lynch regarding the status of the distribution. Merrill Lynch again states the check was mailed on [REDACTED] 2013, and should have received it. They indicate they could do a stop pay and reissue. (Ex. C: Merrill Lynch phone records, [REDACTED]/13)
34. On [REDACTED] 2014, the Appellant's conservator requests Merrill Lynch stop payment of the [REDACTED] 2014 check. (Ex. C: Merrill Lynch phone records, [REDACTED]/14)
35. On [REDACTED] 2014, the Appellant's conservator contacts Merrill Lynch indicating she had not received the check. Merrill Lynch offers to stop payment and sends a 10187EZ to be completed. (Ex. C: Merrill Lynch phone records, [REDACTED]/14)
36. On [REDACTED] 2014, Merrill Lynch receives the 10187EZ. (Ex. C: Merrill Lynch phone records, [REDACTED]/14)
37. On [REDACTED] 2014, the Appellant's conservator calls to verify that paperwork she sent was received which it was. (Ex. C: Merrill Lynch phone records, [REDACTED]/14)
38. On [REDACTED] 2014, Merrill Lynch informs the conservator that a form is missing that is needed to complete processing as conservator. (Ex. C: Merrill Lynch phone records, [REDACTED] 14)
39. On [REDACTED] 2014, Merrill Lynch indicates that when the Appellant calls she needs to send in a 10187bene not a 10187ez. (Ex. C: Merrill Lynch phone records, [REDACTED]/14)
40. On [REDACTED] 2014, the Department sent the Appellant's conservator a W-1348LTC requesting statements from the Merrill Lynch accounts and M&T bank statements. (Ex. 5: W-1348LTC, [REDACTED]/14)
41. Sometime around [REDACTED] 2014, the Appellant's conservator moved her office. (Appellant's conservator testimony)

42. On [REDACTED] 2014, the Department sent the Appellant's conservator a W-1348LTC requesting statements from the Merrill Lynch accounts and M&T bank statements. (Ex. 5: W-1348LTC, [REDACTED]/14)
43. The W-1348LTC was not forwarded to the conservator's new address. (Appellant's conservator testimony)
44. On [REDACTED] 2014, the 10187 Bene was received by Merrill Lynch for closeout of accounts to the Appellant's M&T bank account. (Ex. C: Merrill Lynch phone records, [REDACTED]/14)
45. On [REDACTED] [REDACTED] 2014, the Department denied the Appellant's LTC Medicaid application for failure to provide the required verifications to determine eligibility. (Ex. 1: Notice of Denial, [REDACTED]/14)
46. On [REDACTED] 2014, Merrill Lynch sends the Appellant's conservator requested statements. (Ex. C: Merrill Lynch phone records, [REDACTED]/14)
47. On [REDACTED] 2014, the Appellant's conservator provided to the Department statements from Merrill Lynch. (Ex. H: Letter from the Appellant's conservator, [REDACTED]/14)
48. On [REDACTED] 2014, the Appellant's conservator was informed by the facility of the denial of the Appellant's Medicaid application. (Hearing record)

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. Regulation 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. Uniform Policy Manual ("UPM") § 1010.05(A)(1)
3. Regulation 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. UPM § 1015.10(A)
4. The Department correctly sent the Appellant multiple Application Verification Requirements lists requesting information needed to establish eligibility.

5. Regulation provides that the following promptness standards are established as maximum time periods for processing applications: forty-five calendar days for AABD or MA applicants applying on the basis of age or blindness. UPM § 1505.35(C)
6. Regulation provides that the Department determines eligibility within the standard of promptness for the AFDC, AABD, and MA 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 the client has been granted a 10 day extension to submit verification which has not elapsed. UPM § 1505.35(D)(2)
7. Regulation provides that the eligibility determination is delayed beyond the AFDC, AABD or MA processing standard if because of unusual circumstances beyond the applicant's control, the application process is incomplete and one of the following conditions exists:
 1. Eligibility cannot be determined; or
 2. Determining eligibility without the necessary information would cause the application to be denied.
 UPM § 1505.40(B)(4)(a)
8. Regulations provide that if the application is delayed, the Department continues to process the application until
 1. The application is complete; or
 2. Good cause no longer exists.
 UPM § 1505.40(B)(4)(b)
9. The Appellant's conservator made multiple attempts to provide the requested documentation.
10. The Appellant's conservator kept the Department informed of the status of the outstanding verifications and the lengthy process of getting the funds released from Merrill Lynch.
11. The Appellant representatives demonstrated good cause in not supplying the requested verifications.
12. The Department incorrectly denied the Appellant's application for failure to submit information needed to establish eligibility.

DISCUSSION

After reviewing the evidence and testimony presented, the Department's action to deny the Appellant's request for Medicaid is not upheld.

Regulations provide that an application must remain pending as long as the client has good cause for not submitting verification by the deadline. The Appellant's medical condition prevented her from supplying the needed verifications. The Appellant's representative made multiple attempts to obtain the information. The Appellant's conservator continually notified the Department of the status in regards to the delays from Merrill Lynch. The phone records and faxes provided indicated the conservator was attempting to gain access to the accounts while Merrill Lynch was not recognizing her appointment as conservator. The conservator testified that she was unaware her mail was not being routed by the post office to her new address, which is why she did not receive the final W-1348LTC.

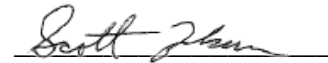
I find the testimony and evidence credible that had the conservator received the request she would have continued to make contact and or provide information requested by the department. Further, it was beyond her control in regards to the length of time it was taking for Merrill Lynch to supply the requested information to the conservator. The Appellant's conservator demonstrated good cause for not supplying the information by the deadline. At the hearing the conservator and the Department stated another application was provided and was in process.

DECISION

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

ORDER

1. The Department will reopen the LTC Medicaid application to the original application date of [REDACTED] 2013.
2. The Department will request any outstanding verifications and determine eligibility.
3. No later than twenty days of the date of this decision, the Department will submit to the undersigned verification of compliance with this order.


Scott Zuckerman
Hearing Officer

Pc: Carol Sue Shannon, Operations Manager, Danbury Regional Office
Barbara Brunner, Fair Hearing Liaison, Danbury Regional Office

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, 55 Farmington Avenue, Hartford, CT 06105-3725.

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, 55 Farmington Avenue, Hartford, CT 06105. 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.

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