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

2014
Signature Confirmation

Client ID #
Request # 626856

NOTICE OF DECISION

PARTY

PROCEDURAL BACKGROUND

On 2014, the Department of Social Services (the "Department") sent (the "POA"), Power of Attorney on behalf of (the "Appellant") a Notice of Action ("NOA") denying her application for Medicaid under the Long Term Care Program ("LTC").

On , 2014, ("Nursing Facility AREP") Representative for Hewitt Health and Rehabilitation (the "Nursing Facility") requested an administrative hearing on behalf of the Appellant to contest the decision to deny such benefits.

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

On 2014, the POA requested a continuance that the Department granted.

On [redacted] [redacted] 2014, the OLCRAH issued a notice scheduling the administrative hearing for [redacted] 2014.

On [redacted] 2014, 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:

[redacted], Power of Attorney for the Appellant
[redacted] Hewitt Health and Rehabilitation Representative
Willette Barnett, Department's Representative
Lisa Nyren, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Appellant's application for Medicaid under the Long Term Care Program was correct.

FINDINGS OF FACT

1. On [redacted], 2012, [redacted] (the "POA") received Power of Attorney for the Appellant. (Exhibit 6: Power of Attorney)

2. On [redacted] 2013, Hewitt Health and Rehabilitation (the "nursing facility"), a long-term care facility, readmitted the Appellant to the nursing facility. (Hearing Record)

3. [redacted] (the "nursing facility AREP") works for the nursing facility. (Nursing Facility AREP's Testimony and Exhibit 4: LTC Application)

4. On [redacted] [redacted] 2013, the nursing facility AREP submitted an application for Medicaid under the LTC program on behalf of the Appellant. (Exhibit 4: LTC Application and AREP's Testimony)

5. The LTC application lists the POA and the nursing facility AREP as authorized representatives. (Exhibit 4: LTC Application)

6. On [redacted] 2014, the Department mailed a W1348 *Verification We* Need form to the POA. The Department requested the following verifications: marital status, nursing home admission, power of attorney documentation, proof of gross income, 2009 to 2014 bank account verification, face value and cash value of life insurance policies, real

estate verification and reverse mortgage, all other accounts, copies of primary and secondary medical insurance cards, and car registration. The requested information was due by ██████ 2014. (Exhibit: 1: W1348 *Verification We Need* ███/14)

7. The Department received some bank statements and the power of attorney document. (Hearing Summary)

8. On ██████ 2014, the Department mailed a W1348 *Verification We* Need form to the POA. The Department requested the following verifications: proof of reverse mortgage for period 2009 through 2014, 2014 bank account verification, face value and cash value of life insurance policies, burial contract, real estate verification, and copies of primary and secondary medical cards. The requested information was due by ██████ 2014. (Exhibit 2: W1348 *Verification We Need* ███*/14*)

9. The Department received social security verification and proof of Medicare. (Hearing Summary)

10. On ██████ 2014, the Department mailed a W1348 *Verification We* Need form to the POA. The Department requested the following verifications: reverse mortgage income and disbursement for 2009 through 2014, 2014 bank account verification, face value and cash value of life insurance, burial contract, real estate deed, and copies of medical card. The requested information was due by ██████ 2014. (Exhibit 3: W1348 *Verification We Need* ███ *14)*

11. On ██████ 2014, the Department contacted the POA via telephone and discussed outstanding verifications. (Hearing Summary)

12. The Department did not receive the requested information by the ██████ 2014 due date. (Department Representative's Testimony and Hearing Summary)

13. On ██████ 2014, the Department denied the Appellant's application for Medicaid under the LTC program because the Department did not receive the required information necessary to determine Medicaid eligibility. (Exhibit 5: NOA ███/14 and Hearing Summary)

14. On ██████ 2014, the Department issued a NOA to the POA on behalf of the Appellant. The notice stated the Department denied the Appellant's application for Medicaid under the LTC program effective ██████ 2013 because you did not return all of the required verification we asked for. (Exhibit 5: NOA ███/14)

15. On ██████ 2014, both the POA and the nursing facility AREP contacted the Department to discuss the denial of the Appellant's application for LTC. The Department instructed the POA and the nursing facility AREP to re-apply for LTC benefits on behalf of the Appellant. (POA's Testimony and Nursing Facility AREP's Testimony)

16. On ██████ 2014, the Appellant reapplied for Medicaid under the LTC program. (AREP's Testimony)

17. On ██████ 2014, the nursing facility issued a notice of proposed transfer or discharge to the Appellant. The notice states the nursing facility intends to discharge the Appellant in thirty days for the non-payment of the per diem facility room rate. (Exhibit A: Notice of Discharge ████/14)

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") § 1010 provides that the assistance unit, by the act of applying for or receiving benefits, assumes certain responsibilities in its relationship with the Department.

3. UPM § 1505.15(A)(1) provides that applicants may apply for and be granted assistance on their own behalf or, under certain conditions, be represented by other qualified individuals who act responsibly for them.

4. UPM § 1505.15(A)(4) provides that a responsible individual applying for assistance on behalf of others must:

   a. Be familiar with household circumstances to the extent that questions concerning need and eligibility can be answered with reasonable accuracy;
   b. Have basic understanding of the assistance program(s) for which application is being made;
   c. Understand the responsibilities which they assume;
   d. Be able to communicate with members of the assistance unit in order to obtain information and to explain rights and responsibilities;
   e. Have an interest in the well-being of the entire assistance unit.

5. UPM § 1505.15(C)(1)(a)(3) provides that the following individuals are qualified to request cash or medical assistance, be interviewed and,

complete the application process on the behalf of others who they represent: a conservator, guardian or other court appointed fiduciary.

UPM § 1505.15(C)(1)(b)(2) provides that if none of the above individual are available, the following persons may file the application on the assistance unit's behalf: an authorized representative (cross reference: 1525)

6. UPM § 1525.15(A)(1) provides for the role of the authorized representative under the medical program.

   a. In the AFDC, AABD, and MA programs, the authorized representative's primary role is to allow the applicant to file an application without delay in an emergency when no other person is able to do so.
   b. The authorized representative may:
      1. File the application; and
      2. Represent the assistance unit at an interview if one is conducted at the time the assistance request is filed.

7. The nursing facility AREP correctly filed an application on the Appellant's behalf.

8. UPM § 1525.05(A) provides that an assistance unit may be represented in various aspects of the eligibility process by a responsible individual who has been given prior authorization to act as the assistance unit's representative.

   UPM § 1525.05(C)(2) provides that an authorized representative must be designated in writing by one of the following individuals: in the AABD and MA programs, by the applicant, or if the applicant is a child, incompetent or incapacitated, by the parent, custodian, or court appointed fiduciary.

9. UPM § 1525.05(D) provides that an assistance unit is permitted to have one authorized representative at a given time, except in the food stamp program where separate representatives may be designated to perform the individual functions of making application and purchasing food with an EBT debit card.

   UPM § 1525.10(A)(1) provides that in order to be an authorized representative a person must be a responsible individual who is:

   a. Eighteen years of age or older; and
   b. Sufficiently familiar with circumstances of the assistance unit.

10. The Department correctly determined the POA as the Appellant's authorized representative.

11. UPM § 1525.05(G) provides that the appointment of an authorized representative does not relieve the assistance unit of any responsibilities. Both the assistance unit and the representative may be held responsible for assistance improperly obtained through action by the authorized representative.

12. UPM § 3525.05(A)(1) provides that as a condition of eligibility, members of the assistance unit are required to cooperate in the initial application process and in reviews, including those generated by reported changes, redeterminations, and Quality Control. (Cross reference: Eligibility Process 1500) Applicants are responsible for cooperating with the Department in completing the application process by:

    a. Fully completing and signing the application form; and
    b. Responding to a scheduled appointment for an interview; and
    c. Providing and verifying information as required.

13. 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 (cross reference: 1555).

    UPM § 1540.10(A) provides that the assistance unit bears the primary responsibility for providing evidence to corroborate its declarations.

14. 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.

    UPM § 1015.05(C) provides that the Department must tell the assistance unit what the unit has to do to establish eligibility when the Department does not have sufficient information to make an eligibility determination.

15. On ████████, 2014, the Department correctly sent the POA a *W1348LTC We Need Verification from You* form requesting information needed to establish eligibility.

16. UPM § 1505.35(C)(1)(d) provides for the following promptness standards are established as maximum time periods for processing applications: ninety calendar days for AABD or MA applicants applying on the basis of disability.

17. UPM § 1505.40(B)(5) provides for delays due to insufficient verification.

    a. 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.
    b. Additional 10-day extensions for submitting verification shall be granted, as long as after each subsequent request for verification at least one item of verification is submitted by the assistance unit within each extension period.

18. UPM § 1505.35(D)(2) provides that the Department determined 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:

    a. The client has good cause for not submitting verification by the deadline; or
    b. The client has been granted a 10 day extension to submit verification which has not elapsed; or
    c. The Department has assumed responsibility for obtaining verification and has had less than 10 days; or
    d. The Department assumed responsibility for obtaining verification and is waiting for material from a third party.

19. On ██████ 2014, the Department correctly granted a 10-day extension for submitting verification and sent the POA a *W1348LTC We Need Verification from You* form requesting information needed to establish eligibility.

20. On █████ 2014, the Department correctly granted a 10-day extension for submitting verification and sent the POA a *W1348LTC We Need Verification from You* form requesting information needed to establish eligibility.

21. UPM § 3525.05(C) provides penalties for noncooperation with the application and review processes are not imposed under the following conditions, which are considered good cause for noncompliance:

    1. Circumstances beyond the assistance unit's control;
    2. Failure of a representative to act in the best interests of an incompetent or disabled assistance unit

UPM § 1505.40(B)(4)(a) provides 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)(b) provides that if the eligibility determination is delayed, the Department continues to process the application until:

1. The application is complete; or
2. Good cause no longer exists.

22. UPM § 3525.05(B)(1) provides for noncompliance with the application process.

    a. An application is denied when an applicant refuses to cooperate with the Department.
    b. It must be clearly shown that the applicant failed to take the necessary steps to complete the application process without good cause before the application is denied for this reason.

23. The Department correctly determined the POA did not establish good cause for failure to submit the requested verification timely.

24. UPM § 1505.40(B)(3)(a) provides that the following provisions apply if subsequent to an administrative delay the applicant becomes responsible for not completing the application process: for AFDC, AABD and MA applications, the Department:

    1. Determines eligibility without further delay; or
    2. Continues to pend the application if good cause can be established or if a 10 day extension is granted.

25. UPM § 1505.35(D)(4) provides that processing standards are not used as the basis for denying assistance. Denial results from the failure to meet or establish eligibility within the applicable time limit.

    UPM § 1505.35(C)(1)(d) provides that the following promptness standards are established as maximum time period for processing applications: ninety calendar days for AABD or MA applicants applying on the basis of disability.

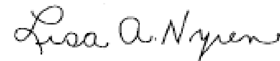
26. The Department correctly denied the Appellant's application for Medicaid under the LTC program for failure to submit information needed to establish eligibility.

DISCUSSION

Testimony provided that the POA, while residing out of state, communicated with the nursing facility AREP throughout the application process. Although the Appellant's application for Medicaid under the LTC program lists two authorized representatives, Departmental regulations allow only one authorized representative to act on behalf of the Appellant. The authorized representative must be familiar with the Appellant's financial situation and able to obtain the necessary verification to determine eligibility. The POA is best suited for this.

DECISION

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



Lisa A. Nyren
Hearing Officer

PC: Peter Bucknall, Field Operations Manager
Lisa Wells, Field Operations Manager

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.

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.