

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

██████████ 2015  
Signature Confirmation

Request # 639915  
Client ID # ██████████

**NOTICE OF DECISION**

**PARTY**

██████████  
for: ██████████  
██████████  
██████████

**PROCEDURAL BACKGROUND**

On ██████████, 2014, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") denying her application for Long Term Care Medicaid because she did not return all of the required verification.

On ██████████ 2014, the Appellant requested an administrative hearing to contest the Department's ██████████, 2014 denial of her application for Medicaid.

On ██████████ ██████████, 2014, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice for request for signature or authorization, because the hearing request was unsigned.

On ██████████ ██████████ 2015, OLCRAH accepted the electronic signature of the Appellant's conservator for the hearing request, and issued a notice scheduling the administrative hearing for ██████████ 2015.

On ██████████ ██████████ 2015, at the Appellant's request, OLCRAH issued a notice rescheduling the hearing for ██████████, 2015.

On ██████████, 2015, 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 of person and estate  
 Jason Bezzini, Department's Representative  
 James Hinckley, Hearing Officer

The Hearing record was held open for the submission of additional evidence. On ██████████, 2015, the hearing record closed.

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether the Department's ██████████, 2014 denial of the Appellant's application for Medicaid because she failed to provide all the required verification without good cause, was correct.

### **FINDINGS OF FACT**

1. The Appellant is an incapable person, and ██████████. is the Appellant's conservator of person and estate (the "Conservator"). (Record)
2. On ██████████ 2013, the Conservator applied to the Department for Long Term Care Medicaid for the Appellant. (Summary, Record)
3. On ██████████ 2014, the Department sent the Conservator its third request for information needed to process the Appellant's application, using form W-1348LTC. The request had a due date of ██████████, 2014 and specifically asked for verification of certain deposit and withdrawal transactions made for the Appellant's checking account at New Alliance Bank, and copies of certain specific checks that were written against the account. (Ex. 4: W-1348LTC "We Need Verification From You" dated ██████████ 2014)
4. On ██████████, 2014, the Conservator sent an email to ██████████ ██████████ Representative at First Niagara Bank stating, "██████████, I just received another request from DSS for bank records on this particular account, could you please help? As you know I am still working on getting her accepted for Medicaid. I need the following:...", and the email went on to list the items that were requested by the Department, and the Department's ██████████ 2015 due date for the information. (Ex. B, Attachment 4: email string dated ██████████, 2014 and ██████████, 2014)
5. On ██████████, 2014, the Conservator attempted to call the Department to provide notice that the information needed to process the Appellant's application would be delayed beyond the ██████████ 2014 due date, but was not able to speak to anyone in person and left a voice mail. (Conservator's testimony)

6. On [REDACTED], 2014, the Department sent the Appellant a NOA advising her that her [REDACTED] 2013 application for Medicaid was denied because she did not return all of the required verification that the Department asked for. (Ex. 6: NOA dated [REDACTED], 2014)
7. On [REDACTED], 2014 at 4:05 P.M., the representative from First Niagara Bank sent an email responding to the Conservator's [REDACTED] 2015 email stating, "Hi [REDACTED] I researched this and I found almost all of them with the exception of: Deposit for [REDACTED] for \$17,560.91. I have the copies here at the branch, please let me know when you can come to pick them up. That deposit we are missing we will have to send it to item processing department for research, it could take a week for them to send it to you. Please let me know if you have any questions." (Ex. B, Attachment 4)
8. On [REDACTED] 2014 at 9:28 P.M., the Conservator sent an email to the DSS eligibility worker stating, Hi Casey: I received a response from the Bank today with respect to the remaining items that you requested and they asked me to pick them up tomorrow. They stated that there is only one item that they could not secure and they will have their research department looking into it. So, I will pick them up tomorrow and make copies and will mail them to you and you should receive them by Friday or Monday at the latest. I will send you a copy of their email so that you can know that I have been diligently trying to secure the documents to have [REDACTED] approved for Medicaid. Thanks for your patience and understanding, [REDACTED]." (Ex. B, Attachment 7)
9. The Department took no further action with respect to the Conservator's email of [REDACTED] 2014, and did not evaluate the Appellant for good cause; the Appellant's Medicaid application remains denied. (Record, Department testimony)

### **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 that the Department requires to determine eligibility and calculate the amount of benefits.

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 § 1505.35 (C) provides that the following promptness standards be established as maximum times for processing applications: forty-five calendar days for AABD or MA applicants applying based on age or blindness.

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 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.

UPM § 1540.10 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.

- A. The assistance unit bears the primary responsibility for providing evidence to corroborate its declarations.
- B. The assistance unit may submit any evidence which it feels will support the information provided by the unit.
- C. The Department obtains verification on behalf of the assistance unit when the following conditions exist:
  1. the Department has the internal capability of obtaining the verification needed through such means as case files, microfiche records, or direct access to other official records; or
  2. the Department has the capability to obtain the verification needed, and the assistance unit has done the following:
    - a. made a reasonable effort to obtain the verification on its own; and
    - b. been unable to obtain the verification needed; and
    - c. requested the Department's help in obtaining the verification; and
    - d. continued to cooperate in obtaining the verification.
  3. when the evidence necessary can only be obtained by payment of a fee, and the Department is able to obtain the evidence.
- D. The Department considers all evidence submitted by the assistance unit or received from other sources.

UPM § 1505.40 (B) (4) (a) 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) (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.
3. The Appellant had good cause for failing to provide the Department with the information it requested by the [REDACTED] 2014 due date.
  4. The Department was incorrect to deny the Appellant's [REDACTED], 2013 application for Medicaid, because it is required to continue to process the application beyond the processing standard until it is complete or until good cause no longer exists.

### **DISCUSSION**

This decision specifically addresses the Department's [REDACTED], 2014 denial of the Appellant's Medicaid application based on the Appellant's failure to respond to its [REDACTED] 2014 request for information by the [REDACTED], 2014 due date.

The record contains clear evidence that the Conservator acted on the Department's [REDACTED], 2014 request promptly by emailing the bank for the needed items as soon as she received the request. There is also evidence that the Conservator placed a phone call to the Department prior to the expiration of the [REDACTED], 2014 deadline, and while the Department has no documentation that it received a phone message, I must assign greater weight to the Conservator's testimony under oath that she placed such a call, than to the Department's absence of documentation that a call was received. And when the bank responded to the Conservator on [REDACTED], 2014 and notified her that it had located all but one of the items, the Conservator sent an email to the Department within hours of the Bank's response, though the email was sent after the Department's close of business for the day. Taking into account mailing times, and the time required for a bank to perform research, a 10-day deadline to provide information may not always be realistic. As long as an applicant is genuinely attempting to comply with a Department request, good cause is appropriate. The Department may deny an application when an applicant has refused to cooperate [UPM § 1505.40(A)(4)(e)], but clearly that is not the case in this instance.

Finally, the Conservator has a valid argument that to whatever extent she may have failed to meet the Department's deadlines for verification, it is not the Appellant, who is an incapable person, who should be penalized for that failure.

This decision does not grant eligibility for the Appellant; it orders the Department to reopen the application so that it can determine whether the Appellant meets the Medicaid eligibility requirements for the application months in question.

**DECISION**

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

**ORDER**

1. The Department shall reopen the Appellant's Medicaid application as of the [REDACTED], 2013 application date of the denied application.
2. The Department shall provide proof of compliance with this order to the undersigned no later than [REDACTED] 2015.

  
James Hinckley  
Hearing Officer

cc: Musa Mohamud, SSOM, Hartford  
Elizabeth Thomas, SSOM, 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, law, and 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, 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, if 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 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.