

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

Client ID # ██████████
Request # 639954

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████ 2014, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") denying benefits to under the Medicaid for Long Term Care program.

On ██████████ 2014, ██████████, the Applicant's son and Power of Attorney ("POA"), (the "Appellant") requested an administrative hearing to contest the Department's 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, 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:

██████████ the Appellant, power of attorney ("POA") for his mother, the Applicant, ██████████
██████████ counsel for the facility where the Applicant resides
██████████, financial counselor for the facility,
Phillip Preston, Department's representative
Maureen Foley-Roy, Hearing Officer

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

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Applicant's application for medical assistance for failing to provide information was correct.

FINDINGS OF FACT

1. On [REDACTED] 2014, the Department held an administrative hearing on a previous denial of a Medicaid for Long Term Care application. (Appellant's Exhibit D: transcript of [REDACTED] 2014 hearing)
2. The issue of the [REDACTED] 2014 hearing was the denial of Medicaid for Long Term Care for failing to provide information regarding a property partially owned by the Applicant. (Exhibit A: Hearing Summary dated [REDACTED] 2014)
3. At the hearing on [REDACTED] 2014, the POA provided a purchase agreement for the property in question and he testified that the buyers anticipated closing on the property in about three weeks. (Exhibit D, pages 41 and 12)
4. On [REDACTED] 2014, the Department received another application for title 19-Medicaid for Long term care for the Appellant. (Exhibit 1: Case Narrative)
5. On [REDACTED] 2014, the Department requested a legible copy of a Purchase and Sales agreement for the Appellant's property. (Exhibit 1)
6. On [REDACTED] 2014, the Department received and reviewed a legible copy of the Purchase and Sales agreement for the Appellant's property which stated that the closing date was [REDACTED] 2014. (Exhibit 4: Purchase and Sales agreement dated [REDACTED] 2014)
7. On [REDACTED] 2014, the Department sent a W1348 Verification We Need list requesting the closing documents for the property. (Exhibit 3:W1348 Verification We Need list)
8. The POA did not respond to the request for the closing documents. (Department representative and POA's testimony)
9. On [REDACTED] 2014, 2014, the Department denied the application for Medicaid for Long Term Care because it did not have the required

information to determine eligibility and it had not received any information or response to the Verification We Need list that it had issued on [REDACTED] 2014. (Exhibit 2: Notice of Denial)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the Medicaid program.
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 § 1015.05 C states 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.
4. The Department was correct when on [REDACTED] 2014, upon receipt of the purchase agreement stating the closing date for the sale of the property was to be [REDACTED] 2014; it requested the closing documents.
5. UPM § 1505.40 B 5 provides for delays in application processing due to insufficient verification in the AFDC, AABD and MA programs.
6. UPM § 1505.40 B 5 a (1) and (2) provide that regardless of the standard of promptness, no eligibility determination is made when there is insufficient verification to determine eligibility when the Department has requested verification and 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.
7. UPM § 1505.40 B 5 b provides that an additional 10 day extension 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.
8. UPM § 1505.35 C1 c(2) provides that a standard of promptness is established as the maximum time period for processing applications. For applicants for Medical Assistance on the basis of age; that standard is forty-five calendar days.
9. UPM § 1505.40 B.1 (b) (1) provides that if the applicant failed to complete

the application without good cause, cases are denied between the thirtieth day and the last day of the appropriate standard for processing the application.

10. The Department was correct when it denied the ██████ 2014 application on ██████ 2014 because it did not receive even one item of verification or any response to the request for information that it had issued on ██████ 2014.

DISCUSSION

The issue of this hearing was the denial of the ██████ 2014 reapplication of Medicaid for Long Term care. The difficulties in establishing eligibility in this case stemmed from the unique circumstances surrounding the Applicant's property. However, this denial was due to the Appellant's failure to respond to a reasonable request by the Department. The Appellant had provided a current purchase and sales agreement for said property. That contract listed the closing date as ██████ 2014. In the absence of further information, it was reasonable for the Department to assume that the closing had gone forward. The Department was correct when it sent a request for the closing documents on ██████ 2014.

The Appellant argued that he did not respond to that request because it had been made clear to various individuals within the Department, particularly at the ██████ 2014 administrative hearing, that the closing scheduled for ██████ 2014 had been delayed. However, an examination of the evidence indicates otherwise. In fact, the Appellant testified at the ██████ hearing that he anticipated the closing would be in approximately three weeks. There is no evidence in the record to indicate that the Department was ever informed that the closing did not go forward as scheduled. Subsequently, the Appellant filed another application and the questions surrounding the property were answered to the Department's satisfaction. But that does not change the fact that the Department did not have enough information to determine eligibility for the ██████ 2014 application despite having requested the information and set a deadline for the provision of that information. The Appellant's failure to respond in any way to that request was the reason for the denial of this application, which was correct.

DECISION

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

Maureen Foley-Roy
Maureen Foley-Roy,
Hearing Officer

CC: Peter Bucknall, Operations Manager
Lisa Wells, Operations Manager
Bonnie Shizume, Program Manager
DSS R.O. #20, New Haven
Philip Preston, DSS Hearing Liaison

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.

