

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 #: ██████████
Hearing ID#: 640701

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████, 2014, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a notice denying her application for Long Term Care ("LTC") Medicaid benefits because she failed to provide items of verification that had been requested and that were necessary to establish program eligibility.

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

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

On ██████████ 2014, OLCRAH issued a notice rescheduling the Appellant's administrative hearing to ██████████, 2014.

On ██████████, 2014, OLCRAH issued a notice rescheduling the Appellant's administrative hearing to ██████████, 2015.

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 Daughter and Conservator, participation by telephone
██████████, Attorney for the Appellant
██████████, Attorney for the Appellant
Jaimie LaChapelle, Department's Representative
Pamela J. Gonzalez, Hearing Officer

The hearing record was held open to allow for the submission of additional information and on ██████████ 2015 the record closed.

STATEMENT OF THE ISSUE

The issue is whether the Department correctly denied the Appellant's Medicaid application because she failed to submit requested verifications needed to establish program eligibility.

FINDINGS OF FACT

1. On ██████████, 2013, the Appellant was admitted to Hebrew Home and Hospital. (Hearing record)
2. On ██████████, 2013, the Appellant applied for LTC Medicaid. (Eligibility Services NARR screen print – Department's exhibit V)
3. On the following dates the Department sent to the Appellant W-1348 LTC Forms requesting that she provide verifications needed to determine her eligibility for LTC Medicaid: ██████████, 2013, ██████████ 2014, ██████████ 2014, ██████████, 2014, ██████████, 2014, ██████████, 2014, ██████████, 2014, and on ██████████, 2014. (W-1348 LTC Forms with respective Addendums – Department's exhibits A, B, F, N, P, Q, S, T)
4. The W-1348 LTC Form issued on ██████████, 2014 asked in part: "For all accounts (including those listed below), provide statements as indicated. For all transactions of \$5,000 or more, provide copies of bills, receipts or cancelled checks to show what the transactions were for. For deposits of \$5,000 or more, prove the origin of funds, i.e. other accounts, sale of property, liquidation of other asset(s). 1. Provide bank statements for account ██████████ from ██████████/08 to present. Please note this account has not been provided to date-this account was not on CD either. Please provide copy of all bank statements from date of open to present. Provide copy of all bank statements from account open until closure. 2. Provide bank statements for Webster Bank account ██████████-per Webster Bank account ██████████ \$84.47 transferred into this account on ██████████/14. Who's account is this? And why was money transferred? Who's account is this?"

Provide verification showing account owner. If this is the Conservator's account than provide copy of bank statement showing account owner." The requested items of verification were due to be returned to the Department by [REDACTED], 2014. (Department's exhibit T)

5. The Appellant's daughter timely responded to the Department's [REDACTED] 2014 request for information with a letter dated [REDACTED] 2014. (Letter dated [REDACTED], 2014 - Department's exhibit U)
6. Account # [REDACTED] that the Department requested verification of in its W-1348 LTC Forms dated [REDACTED] 2014, [REDACTED], 2014, and [REDACTED], 2014 is a routing number for Webster Bank. It is not a bank account number. (Hearing record)
7. The Appellant's daughter thought that the Department was asking for verification of the "[REDACTED] Estate Account" at Webster Bank when it asked for verification of account number [REDACTED]. (Appellant's daughter's testimony)
8. The Appellant's daughter indicated in her [REDACTED], 2014 response to the Department's W-1348 LTC Form that she had previously provided verification of the Estate account and she cited the dates that she submitted the verification. (Department's exhibit U, Appellant's daughter's testimony)
9. The Appellant's daughter indicated in her [REDACTED] 2014 response to the Department's W-1348 LTC Form that account [REDACTED] was a personal account and that \$84.47 was transferred from that account to the Appellant's Estate Account to pay for articles of clothing that were purchased for her mother at the [REDACTED] 2014 request of the Hebrew Home. (Department's exhibit U, Appellant's daughter's testimony)
10. The Appellant's daughter did not keep receipts for the items of clothing that she purchased for the Appellant at the request of the Hebrew Home. (Appellant's daughter's testimony)
11. The Appellant's daughter verified that Webster Bank account # [REDACTED] is in her own name by submitting a copy of the first page of a bank statement of Detailed Account Activity from [REDACTED], 2012 – [REDACTED], 2012. (Bank statement page – Appellant's exhibit 15, Eligibility Management System NARR screen print - Department's exhibit V, Appellant's daughter's testimony)
12. On [REDACTED], 2014, the Department denied the Appellant's application for long-term care Medicaid because she did not return all of the required verification that was asked for: verification of Webster Bank account # [REDACTED] and an acceptable explanation/verification of the transfer of

\$84.47 of █████/14. (Notice of Denial dated █████, 2014 – Department's exhibit W)

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") Section 3029.05(A) provides that there is a period established, subject to the conditions described in this chapter, during which institutionalized individuals are not eligible for certain Medicaid services when they or their spouses dispose of assets for less than fair market value on or after the look-back date specified in 3029.05C. This period is called the penalty period, or period of ineligibility.
3. UPM Section 3029.05(C) provides that the look-back date for transfers of assets is a date that is 60 months before the first date on which both the following conditions exist: 1. the individual is institutionalized; and 2. the individual is either applying for or receiving Medicaid.
4. The Department was correct to explore the look-back period for possible transfers of assets that affect Medicaid eligibility and to request bank account histories for that purpose.
5. UPM Section 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 Section 1540.05.D.1 provides that if the eligibility of the assistance unit depends directly upon a factor or circumstance for which verification is required, failure to provide verification results in ineligibility for the assistance unit. Factors on which unit eligibility depends directly include, but are not limited to:
 - a. income amounts;
 - b. asset amounts.
4. The Department properly requested verification of the Appellant's assets in order to establish her eligibility for Medicaid as well as asset history for the five year period prior to her application or during the look-back period.
5. UPM Section 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.

6. The Department correctly issued W-1348 LTC Forms to the Appellant, asking for items of verification needed to establish program eligibility.
7. The Appellant provided the requested items of verification to the Department for purposes of establishing Medicaid program eligibility.
8. The Department incorrectly issued a W-1348 LTC Form to the Appellant on [REDACTED], 2014 requesting verification of an account that does not exist: Webster Bank account #****[REDACTED] and questioning an account and transfer of \$84.47 that had already been addressed.
9. The Appellant did not fail to provide information that was necessary to determining Medicaid eligibility.
10. The Department was incorrect to deny the Appellant's LTC Medicaid application on [REDACTED], 2014.

DISCUSSION

The Department mistook Webster Bank's routing number for an account number and asked the Appellant to verify the value and look-back history of the account.

The Appellant thought that the Department was requesting verification of the Estate Account and because she had previously provided this, she did not provide it again. Instead, she explained that she had previously sent in verification of the Estate account and cited the dates on which she submitted said information.

It is understandable that the Appellant would not provide the same data again and again when she knew it had already been provided and it is also understandable that the Department would continue to request the items that it thought it still needed to determine eligibility.

After reviewing the testimony and the evidence I find that the Department erred when it denied the Appellant's application because she did not provide bank information pertaining to Webster Bank account # [REDACTED] because the [REDACTED] number is a routing number and not an account number. In essence, the Department was requiring that the Appellant verify an account that does not exist.

With respect to the \$84.47 transfer, I find that the Appellant's Daughter had responded to the Department's inquiry explaining that the

[REDACTED] account was her personal account and provided a page from a statement showing her name and the account number.

DECISION

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

ORDER

The Department shall reopen the Appellant's [REDACTED] 2013 application and shall continue to process.

The Department shall consider the Appellant to have satisfied its [REDACTED], 2014 request for items of verification.

Verification of compliance with this decision is due to OLCRAH by [REDACTED], 2015.

Pamela J. Gonzalez

Pamela J. Gonzalez
Hearing Officer

Copy: Musa Mohamud, Operations Manager, R.O. #10, Hartford
Elizabeth Thomas, Operations Manager, R.O. #10, Hartford
Jaimie LaChapelle, Eligibility Services Specialist, RO #10, Hartford

[REDACTED]
[REDACTED]
[REDACTED]

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, 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 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.