

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 # 641928

Client ID # ██████████

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 the Appellant's Medicaid application for Long Term Care ("LTC") benefits.

On ██████████ 2014, the Appellant 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, OLCRAH, at the Appellant's request, issued a notice rescheduling 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:

Attorney ██████████ for the Appellant

██████████, Paralegal for ██████████

Nedra Pierce, Department's Representative

Christopher Turner, Hearing Officer

The Hearing record was held 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 Appellant's application for LTC Medicaid due to failure to submit information needed to establish eligibility was correct.

FINDINGS OF FACT

1. On [REDACTED], 2013, the Appellant was admitted to the [REDACTED] Nursing and Rehabilitation care facility. (Exhibit 2: Application dated [REDACTED]/14)
2. On [REDACTED] [REDACTED] 2014, the Department received an application for Medicaid LTC Assistance from the Appellant's Spouse and Power Of Attorney ("POA") [REDACTED]. Page 20 of 21 of the application lists [REDACTED] as an authorized representative. (Exhibit 2: W-1LTC)
3. On [REDACTED] 2014, the Department sent the Appellant's POA a "We Need Verification from You" form ("W-1348LTC") requesting a [REDACTED] 2013 summary statement from Northwestern Mutual in regard to contract # [REDACTED]. A [REDACTED]/14 due date was given. (Exhibit 4: W-1348LTC dated [REDACTED]/14; Exhibit 13: Department's narrative page 1 of 8)
4. On [REDACTED] 2014, the Department received the requested Northwestern Mutual summary statement from the Appellant's POA. (Exhibit 13: Page 1 of 8)
5. On [REDACTED] [REDACTED] 2014, the Department sent the Appellant's POA a W-1348LTC requesting bank statements from [REDACTED] to present. A [REDACTED]/14 due date was given. (Exhibit 5: W-1348LTC dated [REDACTED]/14; Exhibit 13: Page 1 of 8)
6. On [REDACTED], 2014, the Department denied the Appellant's LTC application. (Exhibit 13: Department's narrative page 1 of 8)
7. On [REDACTED] 2014, the Department, after speaking with Attorney [REDACTED] secretary, reopened the Appellant's [REDACTED], 2014 LTC application. (Exhibit 13: Page 2 of 8)

8. On [REDACTED] 2014, the Department sent the Appellant's POA a W-1348LTC requesting bank statements from [REDACTED] 2014 to present. A due date of [REDACTED]/14 was given. (Exhibit 6: W-1348LTC dated [REDACTED]/14; Exhibit 13: Page 2 of 8)
9. On [REDACTED] [REDACTED], 2014, a Department representative spoke with the Appellant's POA concerning the [REDACTED]/14 request for information. (Exhibit 13: Page 3 of 8)
10. On [REDACTED] [REDACTED] 2014, the Department sent the Appellant's POA a W-1348LTC requesting bank statements from [REDACTED] 2014 to present with a due date of [REDACTED]/14. (Exhibit 7: W-1348LTC dated [REDACTED]/14)
11. On [REDACTED] [REDACTED], 2014, the Department sent the Appellant's POA a W-1348LTC requesting verification of withdrawals from the Charter Oak account on [REDACTED]/12, [REDACTED]/13, and [REDACTED]/13. A 2014 statement from Northwestern Mutual and a current pension statement were requested as well. A due date of [REDACTED]/14 was given. (Exhibit 8: W-1348LTC dated [REDACTED]/14; Exhibit 13: Page 4 of 8)
12. On [REDACTED], 2014, a Department's representative reviewed the submitted documents received from the Appellant's POA. (Exhibit 13: Page 4&5 of 8)
13. On [REDACTED] [REDACTED] 2014, the Department sent the Appellant's POA a W-1348LTC requesting verification of withdrawals from the Charter Oak accounts on [REDACTED]/12, [REDACTED]/13, and [REDACTED]/13. A [REDACTED]/14 due date was given. (Exhibit 9: W-1348LTC dated [REDACTED]/14; Exhibit 13: Page 4&5 of 8)
14. On [REDACTED] 2014, Nedra Pierce, Eligibility Services Specialist, was assigned to process the Appellant's application. (Exhibit 13: Page 5 of 8)
15. On [REDACTED] 2014, the Department sent the Appellant's POA a W-1348LTC requesting AARP medical insurance, Charter Oak Bank statements from [REDACTED]/14 to present, withdrawals from the Charter Oak accounts on [REDACTED]/12, [REDACTED]/13, and [REDACTED]/13, Charter Oak bank account [REDACTED] statements from [REDACTED]/09, [REDACTED]/10, and [REDACTED]/11. Also, [REDACTED]/09, [REDACTED]/10 and [REDACTED]/11 statements for Northwestern Mutual annuity accounts as well as statements from [REDACTED] 2014 to present. An [REDACTED]/14 due date was given. (Exhibit 10: W-1348LTC dated [REDACTED]/14; Exhibit 13: Page 5 of 8)

16. On [REDACTED] 2014, the Appellant's attorney submitted the Charter Oak Bank statements and Northwestern Mutual statements to the Department. The Appellant's attorney conveyed to the Department's representative via telephone call that he was having difficulty obtaining some of the requested Northwestern Mutual statements from the financial representative, [REDACTED] [REDACTED] (Attorney [REDACTED] testimony; Appellant's Exhibit A: Attorney [REDACTED] brief)
17. On [REDACTED] 2014, the Department sent the Appellant's POA a W-1348LTC requesting withdrawals from the Charter Oak accounts on [REDACTED]/12, [REDACTED]/13, and [REDACTED]/13, Copy of complete Northwestern Mutual annuity contract, and [REDACTED]/09, [REDACTED]/10, [REDACTED]/11 statements for Northwestern Mutual annuity accounts as well as statements from [REDACTED]/12 through [REDACTED] 2013. A due date of [REDACTED]/14 was given. (Exhibit 11: W-1348LTC dated [REDACTED]/14; Exhibit)
18. The Department did not send any W1348's to the Appellant's attorney. (Hearing Record)
19. On [REDACTED] 2014, the Department denied the Appellant's LTC application for failure to return the information requested to determine eligibility. (Exhibit 12: NOA dated [REDACTED]/14)

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 § 1015.10 (A)

The Department correctly sent the Appellant multiple Application Verification Requirements lists requesting information needed to establish eligibility.

The Department failed to send the Appellant's attorney the multiple Application Verification Requirements lists.

3. 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 (A) 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. The assistance unit bears the primary responsibility for providing evidence to corroborate its declarations.

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.

The Department failed to consider the POA's difficulty in obtaining the required information from Northwestern Mutual.

The Department incorrectly denied the Appellant's application for failure to submit information needed to establish eligibility since good cause for obtaining requested verifications exists.

DISCUSSION


After reviewing the evidence and testimony presented, the Department's action to deny the Appellant's request for LTC assistance is not upheld. Regulations require that an application must remain pending as long as the Appellant shows good cause for not providing at least one requested item before the due date given. Since the Appellant's POA established good cause for not submitting requested information by the due date and the fact the Department never sent the verification requests to the Appellant's attorney, the Department must reopen the Appellant's application and send the Appellant's POA, and lawyer another 1348LTC if necessary.

DECISION

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

ORDER

3. The Department will reopen the Appellant's LTC application as of [REDACTED] 2014 and request any outstanding verification via a W-1348LTC.
4. The Department will submit to the undersigned verification of compliance with this order by providing a copy of the Appellant's EMS status screen no later than [REDACTED] 2015.


Christopher Turner
Hearing Officer

Cc: Cheryl Parsons, Operations Manager Norwich
Atty. [REDACTED]
Nedra Pierce, DSS
Bonnie Beal Shizume, DSS
Leonard Marcello, DSS

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.