

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 # 657645

Client ID # ██████████

NOTICE OF DECISION

PARTY

██████████
C/O Atty. ██████████
██████████
██████████

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 ██████████ 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:

Attorney ██████████, for the Appellant
Gwen Moss Clark, Financial Representative, Apple Rehab.
Laynette Serrano, Department's Representative
Christopher Turner, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Appellant's application for LTC due to failure to submit information needed to establish eligibility was correct.

FINDINGS OF FACT

1. On [REDACTED] 2014, the Department received an application for Medicaid LTC Assistance from the Appellant's Conservator and Counsel [REDACTED] (Exhibit 1: W-1F; Exhibit 7: Department's narrative)
2. On [REDACTED] 2014, the Department sent the Attorney [REDACTED] a "We Need Verification" form ("W-1348LTC") requesting spouse's death certificate, Medicare card, Bank of America bank statements from [REDACTED] to present for account # [REDACTED] and # [REDACTED], and proof of face value and cash surrender value for Mutual of Omaha Life Insurance policy. A [REDACTED]/14 due date was given. (Exhibit 2: W-1348LTC dated [REDACTED]/14; Exhibit 7; Hearing summary)
3. On [REDACTED] [REDACTED] 2014, the Department received some requested verifications. (Exhibit 7)
4. On [REDACTED] [REDACTED] 2014, the Department sent the Attorney [REDACTED] a W-1348LTC requesting the Appellant's divorce decree, Bank of America bank statements from [REDACTED] to present for account # [REDACTED] and # [REDACTED], and proof of cash surrender value for Mutual of Omaha Life Insurance policy. A [REDACTED]/14 due date was given. (Exhibit 3: W-1348LTC dated [REDACTED]/14; Exhibit 7; Hearing summary)
5. On [REDACTED] 2014, a Department representative spoke with Attorney [REDACTED]. Attorney [REDACTED] expressed difficulty in obtaining the cash surrender value of the Appellant's life insurance policy. (Exhibit 7)
6. On [REDACTED] 2014, the Department received a letter from Attorney [REDACTED] detailing the steps she has been taking to obtain the requested verifications. (Exhibit 3A: Attorney [REDACTED] letter dated [REDACTED]/14)
7. On [REDACTED] [REDACTED] 2014, the Department sent the Attorney [REDACTED] a W-1348LTC requesting the Appellant's divorce decree, Bank of America bank statements from [REDACTED] to present for account # [REDACTED] and # [REDACTED] and proof of cash surrender value for Mutual of Omaha Life Insurance policy. A [REDACTED]/14 due date was given. (Exhibit 4: W-1348LTC dated [REDACTED]/14; Exhibit 7)

8. On [REDACTED] 2014, the Department received a letter from the Attorney [REDACTED]. The letter included an update on the actions taken by the Attorney [REDACTED] as well as bank account balances and the cash surrender value of the Appellant's life insurance policy. (Exhibit 4A: Letter from Attorney [REDACTED] dated [REDACTED]/14)
9. On [REDACTED] 2014, the Department received verification of the cash surrender value of the Appellant's life insurance policy. (Exhibit 4A: Letter from Mutual Omaha dated [REDACTED]/14)
10. On [REDACTED] 2014, the Department sent Attorney [REDACTED] a W-1348LTC requesting a notarized statement concerning the Appellant's divorce. An [REDACTED]/14 due date was given. (Exhibit 5: W-1348LTC dated [REDACTED]/14; Exhibit 7)
11. On [REDACTED] [REDACTED] 2014, Attorney [REDACTED] sent an E-Mail to the Department's representative informing the Department the steps she will be taking to convert the Appellant's life insurance cash surrender value to an irrevocable funeral contract. The E-Mail indicated Attorney [REDACTED] has sought the advice of Probate Court concerning the proposed transaction. (Exhibit 5A: E-Mail from Attorney [REDACTED] dated [REDACTED]/14)
12. On [REDACTED] [REDACTED] 2014, Attorney [REDACTED] sent an E-Mail to the Department's representative updating the Department the steps she is taking to convert the Appellant's life insurance cash surrender value to an irrevocable funeral contract. In addition, a copy of Attorney [REDACTED] motion for advice to Judge [REDACTED] was included. (Exhibit 5A)
13. On [REDACTED] [REDACTED] 2014, the Department sent Attorney [REDACTED] a W-1348LTC requesting verification that the Appellant's life insurance policy was surrendered, and a copy of the Appellant's irrevocable funeral contract. An [REDACTED]/14 due date was given. (Exhibit 6: W-1348LTC dated [REDACTED]/14; Exhibit 7)
14. On [REDACTED] 2014, Attorney [REDACTED] obtained Probate Court approval for the establishment of an irrevocable funeral contract from the proceeds of the Appellant's Mutual of Omaha life insurance policy cash surrender value. (Appellant's Exhibit A: Copy of court decree; Attorney [REDACTED] testimony)
15. On [REDACTED] 2014, the Department denied the Appellant's LTC application for failure to return the information requested to determine eligibility. (Exhibit 10: NOA dated [REDACTED]/14)
16. On [REDACTED] 2014, Attorney [REDACTED] received a copy of the probate court decree. (Attorney [REDACTED] testimony)

17. Attorney ██████ testimony is credible. (Record)

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.

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 grant Attorney [REDACTED] more time to obtain the required information from Probate Court.

The Department incorrectly denied the Appellant's application for failure to submit information needed to establish eligibility since good cause for obtaining requested verification 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 Attorney established good cause for not submitting requested information by the due date, the Department must reopen the Appellant's application and send the Appellant's Attorney another 1348LTC if necessary.

DECISION

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

ORDER

1. The Department will reopen the Appellant's LTC application as of [REDACTED] 2014 and request any outstanding verification by means of a W-1348LTC.
2. 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: Lisa Wells, Operations Manager New Haven
Bonnie Shizume, Operations Manager New Haven
Laynette Serrano, 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.