

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 #667476

NOTICE OF DECISION

PARTY

██████████
C/O ██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2014, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") granting her Long Term Care ("LTC") benefits effective ██████████ 2014.

On ██████████ 2015, the Appellant requested an administrative hearing to contest the effective date of the LTC Medicaid benefits as determined by the Department.

On ██████████ 2015, 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:

██████████, Appellant's Representative
Tom Pfound, Medicaid 4 You
Julia Fanning, Medicaid 4 You
Victor Robles, Department's Representative
Christopher Turner, Hearing Officer

The Appellant was not present.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly determined [REDACTED] 2014 as the effective date of the Appellant's LTC application.

FINDINGS OF FACT

1. The Appellant is a resident of The [REDACTED] House. (Exhibit 5: Department's narrative, page 1 of 13; Hearing record)
2. [REDACTED] [REDACTED] is the Appellant's sister in law and Authorized Representative ("AREP"). (Record)
3. The Appellant is widowed. (Record)
4. On [REDACTED] 2014, the Department received an application for LTC Medicaid Assistance for the Appellant submitted by the Appellant's AREP. (Exhibit 5: Page 1 of 13)
5. On [REDACTED] 2014, the Department sent the Appellant's AREP a Verification We Need form ("W-1348LTC"). (Exhibit 5: Pages 1 and 2 of 13)
6. On [REDACTED] 2014, the Department received, via fax, from Appellant's AREP information requested on [REDACTED] 2014. (Exhibit 5: Page 2 of 13)
7. On [REDACTED] 2014, the Department's representative reviewed the Appellant's LTC application and sent a second W-1348LTC to the Appellant's AREP. (Exhibit 5: Page 3 of 15)
8. On [REDACTED] 2014, the Department's representative spoke with the Appellant's AREP. The Appellant's AREP expressed difficulty in obtaining some requested verifications. (Exhibit 5: Page 5 of 13)
9. On [REDACTED] 2014, the Department's representative reviewed the Appellant's LTC application and sent the Appellant's AREP another W-1348LTC. (Exhibit 5: Pages 5 and 6 of 13)
10. On [REDACTED] 2014, the Department's representative reviewed information received [REDACTED]/14 and sent the Appellant's AREP another W-1348LTC. The Appellant's AREP expressed difficulty in obtaining some requested verifications. (Exhibit 5: Pages 6 and 7 of 13)
11. On [REDACTED] 2014, the Department denied the Appellant's [REDACTED] 2014 LTC application. (Exhibit 5: Page 7 of 13)

12. On [REDACTED] 2014, a Department representative spoke with a Suffield House employee concerning the denial of Appellant's LTC application. (Exhibit 5: Pages 7 and 8 of 13)
13. On [REDACTED] 2014, the Department received an application for LTC via e-mail from The Suffield House on behalf of the Appellant. (Exhibit 1: Copy of W-1LTC pages 19 and 21; Exhibit 5: Page 8 of 13)
14. On [REDACTED] [REDACTED] 2014, the Department's representative reviewed the Appellant's LTC application and sent a W-1348LTC to the Appellant's AREP. The verifications requested included a signed HIPPA authorization form, copies of the Appellant's 2011 tax document and end statements for 2009, 2010, and 2011 along with all statements from [REDACTED] 2012 to present, funeral contract, and trust documents. A [REDACTED]/14 due date was given. (Exhibit 2: 1348 dated [REDACTED]/14; Exhibit 5: Page 9 of 13; Hearing summary)
15. On [REDACTED] 2014, the Department received an e-mail from the Appellant's AREP containing a copy of the Appellant's irrevocable funeral contract. (Exhibit 5: Page 10 of 13; Hearing summary)
16. On [REDACTED] [REDACTED] 2014, the Department's representative reviewed the verifications received [REDACTED] 14 and sent another W-1348LTC to the Appellant's AREP and [REDACTED] from Medicaid 4 You. The verifications requested included copies of the Appellant's 2011 tax document to determine a possible foreign investment and end statements for 2009, 2010, and 2011 along with all statements from [REDACTED] 2012 to present, and trust documents. A [REDACTED]/14 due date was given. (Exhibit 3: 1348LTC dated [REDACTED]/14; Exhibit 5: Page 10 of 13; Hearing summary)
17. On [REDACTED] [REDACTED] 2014, the Department received an e-mail from a representative of Medicaid 4 You with verification that the Appellant's potential foreign investment account was part of a Merrill Lynch IRA. (Exhibit 5: Pages 10 and 11 of 13; Hearing summary)
18. On [REDACTED] 2014, the Department's representative sent the Appellant's representative, Medicaid 4 You, and the [REDACTED] House a W-1348LTC requesting a copy of the Appellant's trust document. A [REDACTED]/14 due date was given. (Exhibit 5: Pages 10 and 11 of 13; Hearing summary)

19. On [REDACTED] 2014, the Department's representative spoke with Julia from Medicaid 4 You concerning questions about the Appellant's possible trust account. Julia referred the Department's representative to the Appellant's accountant for clarification. The Appellant's accountant explained to the Department's representative that the Appellant's trust is revocable grantor trust with a Merrill Lynch account as the only item in the trust. (Exhibit 5: Page 12 of 13)
20. On [REDACTED] 2014, the Department determined the Appellant does not have to provide a trust document as all the assets in the Appellant's trust were listed on the Appellant's 1040 tax return. (Exhibit 5: Page 12 of 13; Hearing summary)
21. On [REDACTED] 2014, the Department granted the Appellant's LTC application effective [REDACTED] 2014. (Exhibit 5; Hearing summary)
22. On [REDACTED] 2014, the Department received an e-mail request from The [REDACTED] House for an income diversion to cover the period of [REDACTED]/14 through [REDACTED]/14. (Exhibit 5: Page 12 of 13; Hearing summary)
23. On [REDACTED] 2014, the Department's representative granted an income diversion for the period of [REDACTED]/14 through [REDACTED]/14. (Exhibit 5: Page 12 of 13; Hearing summary)
24. The Appellant's AREP is seeking eligibility from the original application date of [REDACTED] 2014 through [REDACTED] 2014 based on the assertion that the Appellant was under assets during that time. (Appellant's Exhibit A: Letter from AREP; Hearing request form dated [REDACTED]/15; AREP's testimony).

CONCLUSIONS OF LAW

1. Section 17b-260 of the Connecticut General Statutes authorizes the Commissioner of 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 benefit.

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.

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 the Appellant's AREP more time to obtain the required information.

The Department incorrectly denied the Appellant's ██████ 2014 application for failure to submit information needed to establish eligibility since good cause for obtaining requested verification exists.

4. It is not possible based on the evidence presented at the hearing to determine the month in which the Appellant's assets were within departmental guidelines.

DISCUSSION

The original issue to be decided was whether the Department correctly determined [REDACTED] 2014 as the effective date of the Appellant's LTC coverage. It is evident the Appellant's AREP requested a hearing concerning the Department's [REDACTED] 2014 denial. The Appellant's hearing request, dated [REDACTED] 2015, was received within the 60-day time limit and indicated the appeal be based on the Department's action to deny the Appellant's [REDACTED] 2014 application due to failure to provide information. Though the Appellant used the [REDACTED]/14 notice, the hearing request is quite clear and in accordance with departmental policy.

This decision does not make a ruling on the Appellant's eligibility from [REDACTED] 2014, but requires the Department to explore the possibility.

DECISION

The Appellant's appeal is **Remanded** back to the Department for further processing.

ORDER

The Department is instructed to evaluate the Appellant's eligibility for LTC coverage from [REDACTED] 2014 through [REDACTED] 2014. Compliance with this order will consist of a copy of the Appellant's [REDACTED] 2014 status screen due no later than 15 days from the date of this decision.

Christopher Turner

Christopher Turner
Hearing Officer

Cc: Musa Mohamud, Operations Manager Hartford
Medicaid 4 You
Victor Robles, DSS 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, 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.