

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVE.
HARTFORD, CT 06105-3725

██████████ 2015
Signature Confirmation

Client ID # ██████████
Request # 670302

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2015, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") denying his application for Medicaid under the Long Term Care Program ("LTC").

On ██████████ ██████████ 2015, ██████████ ██████████ ("POA"), Power of Attorney and Authorized Representative requested an administrative hearing to contest the decision to deny such benefits.

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, 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:

██████████, Power of Attorney and Appellant's Representative
Susan Debevec, Medicaid Specialist, Kimberly Hall and Witness for the Appellant
Kimberly Wilson, Department's Representative
Lisa Nyren, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the decision to deny the Appellant's application for Medicaid under the Long Term Care Program was correct.

FINDINGS OF FACT

1. On [REDACTED] 2014, Kimberly Hall (the "nursing home"), a nursing home admitted the Appellant to their facility. (Witness Testimony)
2. On [REDACTED] 2014, the Appellant applied for Medicaid under the LTC program for himself. (Hearing Record)
3. The Appellant appointed [REDACTED] (the "POA") as his Power of Attorney. (Hearing Record)
4. On [REDACTED] 2014, the Department mailed a W1348 *Verification We Need* form to the Appellant. The Department requested the following verifications: Old American Life Insurance ("OALI"), AARP Life Insurance ("AARP"), divorce decree, Bank of America ("BOA") account information, Direct Express ("DE") account information and outstanding medical bills. The requested information was due by [REDACTED] 2014. (Exhibit: 6: Case Narrative)
5. A Direct Express account is a prepaid debit MasterCard account available to recipients of Social Security benefits. Social Security deposits benefits each month to the account electronically. (POA's Testimony and Exhibit 5: Email [REDACTED] 15)
6. On [REDACTED] 2014, the Department received verification of the OALI and a statement of divorce. (Exhibit 1: Email [REDACTED]/14)
7. On [REDACTED] 2014, the POA requests assistance from the Department in obtaining the BOA verification and requests additional time to submit outstanding verifications, which the Department grants. (Exhibit 2: Email [REDACTED]/14)
8. On [REDACTED] 2014, the Department received some of the requested information. (Hearing Summary and Department Representative's Testimony)
9. On [REDACTED] 2014, the Department received the AARP documentation requested. (Exhibit 3: Email [REDACTED]/14)

10. On [REDACTED] 2014, the Department requested verification directly from BOA. (Exhibit 6: Case Narrative)
11. On [REDACTED] 2014, the Department mailed a W1348 *Verification We Need* form to the Appellant. The Department requested the following verifications: DE account information and AARP. The requested information was due by [REDACTED] 2014. (Exhibit 6: Case Narrative)
12. On [REDACTED] 2014, the Department received verification directly from BOA. (Exhibit 6: Case Narrative)
13. On [REDACTED] 2014, the Appellant resubmits AARP documentation. (Exhibit 6: Case Narrative)
14. On [REDACTED] 2014, the Department mailed a W1348 *Verification We Need* form to the Appellant. The Department requested the following verifications: DE account information and AARP. The requested information was due by [REDACTED] 2014. (Exhibit 6: Case Narrative)
15. On [REDACTED] 2014, the Appellant requests assistance in obtaining DE account information from the Department. (Exhibit 5: Email [REDACTED]/15)
16. On [REDACTED] 2014, the Department mailed a W1348 *Verification We Need* form to the Appellant. The Department requested the following verifications: DE account information and AARP. The requested information was due by [REDACTED] 2014. (Exhibit 6: Case Narrative)
17. On [REDACTED] 2014, the Department received some of the requested information, specifically AARP documents. (Exhibit 6: Case Narrative)
18. On [REDACTED] 2014, the Department mailed a W1348 *Verification We Need* form to the Appellant. The Department requested the following verification: DE account information. The requested information was due by [REDACTED] 2014. (Exhibit 6: Case Narrative)
19. On [REDACTED] 2015, the Department denied the Appellant's application for LTC because he did not return all of the required verification. (Exhibit 6: Case Narrative, Exhibit 9: NOA [REDACTED]/15, Hearing Summary, and Department Representative's Testimony)
20. On [REDACTED] 2014, the Department issued a NOA to the Appellant. The notice stated the Department denied the Appellant's application for LTC effective [REDACTED] 2014 because he did not return all of the required verification we asked for. (Exhibit 9: NOA [REDACTED]/15)

21. On [REDACTED] 2014, the Appellant hand delivered the DE account information to the Regional Office. (POA's Testimony and Exhibit 6: Case Narrative)
22. On [REDACTED] 2015, the Appellant reapplied for Medicaid under the LTC program. (Hearing Summary and Exhibit 6: Case Narrative)
23. The POA's testimony is credible.

CONCLUSIONS OF LAW

1. Section 17b-2 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") § 1505.10(D)(1) provides for AFDC, AABD and MA applications, except for the Medicaid coverage groups noted below in 1510.10(D)(2), the date of application is considered to be the date that a signed application form is received by any office of the Department.
3. The Department correctly determined the Appellant's date of application as [REDACTED] 2014.
4. UPM § 1505.15(A)(1) provides that applicants may apply for and be granted assistance on their own behalf or, under certain conditions, be represented by other qualified individuals who act responsibly for them.
5. The POA represented the Appellant during the application process.
6. UPM § 3525.05(A)(1) provides that as a condition of eligibility, members of the assistance unit are required to cooperate in the initial application process and in reviews, including those generated by reported changes, redeterminations, and Quality Control. (Cross reference: Eligibility Process 1500) Applicants are responsible for cooperating with the Department in completing the application process by:
 - a. Fully completing and signing the application form; and
 - b. Responding to a scheduled appointment for an interview; and
 - c. Providing and verifying information as required.
7. 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 (cross reference: 1555).

UPM § 1540.10(A) provides that the assistance unit bears the primary responsibility for providing evidence to corroborate its declarations.

8. 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 § 1015.05(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.

9. Throughout the application process, the Department correctly sent the Appellant and POA *W1348 We Need Verification* forms requesting information needed to establish eligibility and allowing ten (10) days to submit the verification requested.

10. UPM § 1505.35(C)(1)(d) provides for the following promptness standards are established as maximum time periods for processing applications: ninety calendar days for AABD or MA applicants applying on the basis of disability.

11. UPM § 1505.35(D)(2) provides that the Department determined 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; or
- c. The Department has assumed responsibility for obtaining verification and has had less than 10 days; or
- d. The Department assumed responsibility for obtaining verification and is waiting for material from a third party.

12. UPM § 1505.40(B)(4) provides for delays due to good cause (AFDC, AABD, MA only)

- a. 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.
- b. 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.
13. UPM § 3525.05(C) provides penalties for noncooperation with the application and review processes are not imposed under the following conditions, which are considered good cause for noncompliance:
1. Circumstances beyond the assistance unit's control;
 2. Failure of a representative to act in the best interests of an incompetent or disabled assistance unit
14. The POA was unable to obtain the requested documentation from the third party by the Department's due date due to circumstances beyond her control.
15. The POA had good cause for not submitting the requested verification by the Department's [REDACTED] 2014 deadline.
16. The Department failed to recognize the POA's good cause for failing to provide the documentation to the Department by the [REDACTED] 2014 deadline.
17. The Department incorrectly denied the Appellant's application for failure to submit information needed to establish eligibility.

DISCUSSION

Based on the testimony and evidence submitted at the hearing, this hearing officer finds the POA had good cause when she failed to submit the requested verification by the [REDACTED] 2014 deadline established by the Department. The POA submitted documentation as requested throughout the application process, including duplicate information when requested. The POA communicated regularly via emails and phone calls with the Department to inform the Department on the status of obtaining the documentation requested. The Department granted additional extensions throughout the application process as reasonable but failed to recognize the delay in obtaining additional verifications from a third party financial institution, specifically the Direct Express Account. The POA testified that upon receipt of the information two days after the denial, she hand delivered all forty-two envelopes containing the requested information directly to the Regional Office.

DECISION

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

ORDER

1. The Department must reopen the Appellant's application for Medicaid under the LTC program effective [REDACTED] 2014 and continue to process eligibility.
2. The Department will issue a corrected notice of action to the Appellant.
3. Compliance with this order is due [REDACTED] 2015.

Lisa A. Nyren
Hearing Officer

PC: Musa Mohamad, Social Services Operations Manager
Elizabeth Thomas, Social Services Operations Manager
Kimberly Wilson, Eligibility Services Worker

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.