

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 # 672357

NOTICE OF DECISION

PARTY

██████████
Re: ██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2014, the Department of Social Services (the "Department") sent ██████████, (the "Applicant") a Notice of Action ("NOA") indicating that the Department is denying the Applicant's Long Term Care ("LTC") Medicaid application for failure to provide information.

On ██████████ 2015, the Appellant's Representative, requested an administrative hearing to contest the Department's decision to deny the Applicant's application for Medicaid.

On ██████████ 2015, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████ 2015.

The Appellant's Counsel requested a reschedule.

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On [REDACTED] 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:

[REDACTED] Attorney Representing Applicant
 [REDACTED] Paralegal for [REDACTED]
 Glenda Gonzalez, DSS Representative
 Ellen Croll, DSS Representative
 Shelley Starr, Hearing Officer

The Appellant, [REDACTED], POA, was not present at the hearing.
 The Applicant, [REDACTED], was not present at the hearing.

The hearing record remained open for the submission of additional evidence. On [REDACTED] 2015, the hearing record closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Applicant's application for Medicaid for Long Term Care Assistance (LTSS) due to failure to submit information needed to establish eligibility was correct.

FINDINGS OF FACT

1. On [REDACTED] 2014, the Applicant was admitted to the West River Health Care Center of [REDACTED] Connecticut. (Exhibit B: Counsel's Memorandum)
2. On [REDACTED] 2014, the Applicant appointed her daughter as Power of Attorney ("POA"). (Counsel's Testimony)
3. On [REDACTED] 2014, the Department received an application for Long Term Care Medicaid assistance. (Department's Exhibit 5: W-1LTC and Department's Testimony)
4. The W-1LTC was completed and signed by the Applicant's POA and included an authorization to disclose information to Attorney [REDACTED] (Exhibit 5: W-1 LTC)
5. The Applicant, at the time of application, was 77 years old (DOB [REDACTED]/37), widowed, with a primary medical diagnosis of Diabetes. (Exhibit 5: W-1LTC and Counsel's Testimony)
6. On [REDACTED] 2014, the Applicant passed. (Counsel's Testimony)

7. The Department issued four (4) W-1348 LTC Verification We Need forms requesting information necessary for the pending long term care application. All W-1348 requests were mailed to the POA. (Exhibit 15: W-1348 LTC requests dated, [REDACTED]/14, [REDACTED]/14, [REDACTED]8/14, [REDACTED]/14 and Counsel's Testimony)
8. The Department corresponded with Attorney [REDACTED] who was assisting with the Applicant's Medicaid application. He provided the Department with much of the requested verification by email and provided status updates. (Exhibit 17: emailed correspondence between Department and Attorney [REDACTED] and Counsel's Testimony)
9. On [REDACTED] 2014, the Department mailed the POA a second (#2) W-1348 LTC Verification We Need request for bank account information and information regarding a newly discovered Metlife Life Insurance policy. The information was due by [REDACTED] 2014) (Exhibit 15: W-1348LTC request issued [REDACTED] [REDACTED] 2014 and Exhibit 8: Case Narrative)
10. On [REDACTED] [REDACTED] 2014, the Department reviewed the submitted verification and mailed the POA a third (#3) W-1348 LTC Verification We Need request for proof of Metlife policy surrender and proceeds. The information was due by [REDACTED] 2014. (Exhibit 15: W-1348 LTC dated [REDACTED] 2014)
11. On [REDACTED] 2014, the Department received an e-mail from Attorney [REDACTED] office advising he spoke to Metlife and discovered there were two policies that he and the POA were unaware of and that the policy information was being issued by mail to the POA. (Exhibit 17: E-mail correspondence; email dated [REDACTED] 2014)
12. On [REDACTED] 2014, Attorney [REDACTED] sent the Department a letter advising that he is in the process of obtaining Metlife policy information and requesting an extension of time for the information. (Appellant's Exhibit D: letter dated [REDACTED] 2014)
13. On [REDACTED] 2014, the Department allowed the request for an extension, and mailed the POA a fourth (#4) W-1348 LTC Verification We Need request for Metlife life insurance policy verification including the policy, surrender and proceeds. The information was due by [REDACTED] [REDACTED] 2014. (Exhibit 15: W-1348LTC dated [REDACTED] 2014 and hearing record)
14. On [REDACTED] 2014, Attorney [REDACTED] sent the Department a letter regarding the Metlife insurance policies advising that the policy information

has not been received and requesting an extension of time. (Exhibit E: letter from Attorney ██████ dated ██████ 2014)

15. On ██████ 2014, the Department reviewed the letter from Attorney ██████ and did not allow an extension of time for the insurance policy information because the Attorney's letter was the same as his prior letter submitted on ██████ 2014. (Department's Testimony and Exhibit 8: Case Narrative)
16. On ██████ 2014, the Department denied the Appellant's ██████ 2014, long term care Medicaid application for failure to return all of the required verification. (Department's Exhibit 3: Denial Notice dated ██████ 2014 and Hearing Summary)
17. There is no evidence in the record that the Department considered the Appellant's good cause circumstances as a factor when he requested a second extension to provide information. (Hearing 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 which 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.

The Department correctly sent the Appellant application verification requirement 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 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: the client has good cause for not submitting verification by the deadline, or the client has been granted a 10 day extension to submit verification which has not elapsed.

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.

UPM § 1555.10 (A) (1) provides that under certain conditions, good cause may be established if an assistance unit fails to timely report or verify changes in circumstances and the delay is found to be reasonable.

UPM § 1555.10 (B)(1) provides that PA assistance units may establish good cause for (a) failing to report timely; or (b) failing to provide required verification timely.

UPM § 1555.10 (B)(2) provides that good cause may include, but is not limited to (a) illness; (b) severe weather; (c) death in the immediate family; (d) other circumstances beyond the unit's control.

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

The Department incorrectly denied the Applicant's ██████████ 2014 long term care Medicaid 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 long term care assistance is not upheld. Regulations require that an application must remain pending as long as the Appellant shows good cause for not providing the item before the due date given.

The record demonstrates that the Appellant's Attorney, who was assisting with the Medicaid application had a continuous back and forth communication with the Department primarily through e-mails. On ██████████ 2014, the Attorney notified the Department of the circumstances beyond his control for not obtaining the requested information and requested an extension of time to continue to obtain

the information. The Department did not allow an extension and did not consider his reason for not submitting the information prior to the Department's [REDACTED] 2014, denial. The discovery of the Metlife policies occurred after the submission of the Medicaid application. The Department made an initial request for Metlife policy information on [REDACTED] 2014. Once discovered, the Attorney demonstrated effort to cooperate and obtain the information. The Department did not allow a reasonable amount of time for the Appellant to obtain the information or consider the good cause circumstance for not providing the information by the due date, as the application was denied on [REDACTED] 2014.

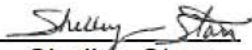
The Department incorrectly denied the application for Medicaid for failure to provide the necessary verification.

DECISION

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

ORDER

1. The Department shall reopen the Applicant's Medicaid application as of [REDACTED] 2014 and if needed, request any outstanding verification via a W-1348 LTC and continue to process the Medicaid application.
2. The Department shall submit to the undersigned verification of compliance with this order by providing a copy of the Applicant's EMS status screen no later than [REDACTED] 2015.



Shelley Starr
Hearing Officer

cc: Bonnie Shizume, Manager; New Haven Regional Office

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 06105-3725.

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.

