

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 # 673119

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") denying her application for Medicaid benefits.

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

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

On ██████████ 2015, the Appellant's conservator requested to reschedule the hearing.

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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 conservator
Attorney Anne Jasorkowski, Riverside Healthcare
Matthew Lenczewski, Eligibility Services Worker, Department's Representative
Roberta Gould, Hearing Officer

The hearing record was held open for the submission of additional evidence. The record closed on ██████████ 2015.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Appellant's application for Medicaid for Long Term Care assistance due to failure to provide information needed to establish eligibility was correct.

FINDINGS OF FACT

1. The Appellant entered Riverside Health and Rehabilitation Center on ██████████ 2014. (Exhibit 6: Appellant's medical records)
2. The Appellant had breast cancer, kidney failure, diabetes, and mild dementia. (Exhibit 6 and Exhibit 7: Petition for appointment of conservator)
3. On ██████████ 2014, Connecticut Probate Court appointed ██████████ as the Appellant's conservator of the estate and person because, due to her medical conditions, the Appellant required assistance managing her finances and applying for benefits. (Exhibit 8: Probate court decree)
4. The Appellant applied for Medicaid for Long Term Care assistance on ██████████ 2014. (Exhibit 3: W-1 application form and Hearing summary)
5. On ██████████ 2014, the Department sent a W-1348 Verification We Need form with a W-1659 Applying for Medicaid to Pay for Long-Term Care form to the Appellant requesting documentation of the Appellant's assets from ██████████ of 2013 through the present as well as medical information. The due date for the information was ██████████ 2014. (Exhibit 4: W-1348LTC, Exhibit 5: W-1659 and Hearing summary)
6. The Appellant's conservator did not send any of the requested documentation to the Department. (Department's testimony and Hearing summary)
7. On ██████████ 2014, Riverside Health and Rehabilitation Center petitioned the Connecticut Probate Court to remove ██████████ from her position as conservator of estate due to her failure to act in the Appellant's best interests. (Exhibit 9: Petition to remove conservator and Exhibit 12: Affidavit of Riverside office manager)

8. On [REDACTED] 2014, the Department denied the Appellant's application because the Appellant did not return the required verification to determine eligibility. (Exhibit 2: Case Narrative and Hearing summary)
9. On [REDACTED] 2015, [REDACTED] removed the Appellant from Riverside Health and Rehabilitation Center against medical advice. [REDACTED] removed all of the funds from the Appellant's Webster Bank account. (Exhibit 12 and conservator's testimony)
10. On [REDACTED] 2015, the Probate Court determined that [REDACTED], conservator of estate for the Appellant, failed to submit an inventory of all the Appellant's estate assets and was in violation of Connecticut General Statute 45a-656b(a), which provides that a conservator of person must obtain probate court approval before changing a respondent's residence. The Probate Court ordered [REDACTED] to return the Appellant to Riverside Health and Rehabilitation Center immediately. (Exhibit 10: Decree from probate court hearing)
11. On [REDACTED] 2015, the Appellant passed away. (Exhibit 13: Certificate of death)
12. On [REDACTED] 2015, [REDACTED], became the Appellant's conservator of estate. (Appellant's representative's testimony)

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.
3. 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.
4. The Department correctly sent the Appellant's conservator a W-1348 We Need Verification from You form requesting information needed to establish eligibility and informed the conservator of the \$1,600.00 asset limit for Medicaid assistance.
5. 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.; or
 - c. the Department has assumed responsibility for obtaining verification and has had less than 10 days; or
 - d. the Department has assumed responsibility for obtaining verification and is waiting for material from a third party.
6. UPM § 3525.05(C) provides that 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.
7. On ██████████ 2014, the Department incorrectly denied the Appellant's application for failure to submit information needed to establish eligibility.

DISCUSSION

After reviewing the evidence and testimony presented at this hearing, I find that the Department's action to deny the Appellant's request for Medicaid is not upheld. Regulations provide that when the client has good cause for not submitting verification by the deadline penalties for noncooperation with the application process are not imposed. The Appellant's conservator failed to provide any requested documentation to the Department and, in doing so, failed to act in her best interests after she was declared by the Probate Court to be incompetent.

DECISION

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

ORDER

1. The Department shall reopen the Appellant's application back to [REDACTED] 2014.
2. No later than [REDACTED] 2015, the Department will provide to the undersigned proof of compliance.

Roberta Gould

Roberta Gould
Hearing Officer

Pc: John Hesterberg, Social Services Operations Manager, DSS Manchester
Matthew Lenczewski, Eligibility Services Worker, DSS Manchester

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.