

STATE OF CONNECTICUT  
DEPARTMENT OF SOCIAL SERVICES  
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS  
55 FARMINGTON AVENUE  
HARTFORD, CT 06105

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

Client ID # ██████████  
Request # 674232

**NOTICE OF DECISION**

**PARTY**

██████████  
██████████  
██████████  
██████████

**PROCEDURAL BACKGROUND**

On ██████████ 2015, the Department of Social Services (the "Department") sent ██████████, the Power of Attorney (the "POA") a Notice of Action ("NOA") denying ██████████ (the "Appellant") Long Term Care ("LTC") application for Medicaid benefits effective ██████████ 2014.

On ██████████ 2015, ██████████ (the "AREP"), the authorized representative requested an administrative hearing to contest the denial of the Appellant's application for Medicaid under the LTC program.

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

On ██████████ 2015, the AREP requested a continuance that was granted.

On ██████████ 2015, OLCRAH issued a notice scheduling the administrative hearing for ██████████ 2015.

On ██████████ 2015, the AREP requested a continuance that was granted.

On ██████████ 2015, OLCRAH issued a notice scheduling the administrative hearing for ██████████ 2015.

On [REDACTED] 2015, the AREP requested a continuance that was granted.

On [REDACTED] 2015, OLCRAH issued a notice scheduling the administrative hearing for [REDACTED] 2015.

On [REDACTED] 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:

[REDACTED], Power of Attorney for the Appellant,  
[REDACTED], Authorized Representative for the Appellant  
Nancy Sciascia, Department's Representative  
Lisa Nyren, Hearing Officer

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

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether the Department's decision to deny the Appellant's application for Long Term Care Medicaid benefits effective [REDACTED] 2014 was correct.

### **FINDINGS OF FACT**

1. On [REDACTED] 2013, Middlebury Convalescent Home, (the "nursing home"), a long-term care nursing facility, admitted the Appellant. (Hearing Summary)
2. On [REDACTED] 2014, the Appellant died at the nursing home. (Hearing Summary and AREP's Testimony)
3. [REDACTED] (the "POA") is the Appellant's daughter and Power of Attorney. (POA's Testimony and Exhibit 1: W-1LTC Application)
4. [REDACTED] [REDACTED] (the "AREP") is the Appellant's grandson and Authorized Representative. (AREP's Testimony and Exhibit 1: W-1LTC Application)
5. On [REDACTED] 2014, the Department received an application for Medicaid under the LTC program from the AREP and POA on behalf of

the Appellant. (Hearing Summary, Exhibit 1: W-1LTC Application, and Exhibit 2: Notice of Denial [REDACTED]/15)

6. On [REDACTED] [REDACTED] 2015, the Department denied the Appellant's application for Long Term Care Medicaid because the Appellant expired in [REDACTED] 2014 and the application for Medicaid would not cover LTC services prior to [REDACTED] 2014. (Hearing Summary)
7. On [REDACTED] 2015, the Department issued a notice of denial. The notice stated the Department denied your application for Medicaid effective [REDACTED] 2014 for the reason please call your worker. The worker commented, "This application has been denied since Mrs. [REDACTED] expired [REDACTED]/14. This application would apply to any eligibility for [REDACTED]/14 and the three months prior to application ([REDACTED]/14 – [REDACTED]/14)." (Exhibit 2: Notice of Denial [REDACTED]/15)

### **CONCLUSIONS OF LAW**

1. Section 17b-2 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") § 1505.15(C)(1)(a) provides that the following individual are qualified to request cash or medical assistance, be interviewed and, complete the application process on the behalf of others who they represent:
  1. The caretaker relative of a child applicant;
  2. The spouse, provided that the spouse is not estranged;
  3. A conservator, guardian or other court appointed fiduciary.

UPM § 1505.15(C)(1)(b) provides that if none of the above individuals are available, the following persons may file the application on the assistance unit's behalf:

1. Another responsible assistance unit member; or
2. An authorized representative. (cross reference: 1525)
3. UPM § 1505.10(D)(1) provides that for AFDC, AABD and medical applications, except for the Medicaid coverage groups noted below in 1505.10(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.
4. The Department correctly determined the Medicaid application date as [REDACTED] 2014.

5. UPM § 1505.40(A)(4)(d) provides that the Department may complete the eligibility determination at any time during the application process when adequate information exists to determine ineligibility because one or more eligibility requirements are not satisfied.
6. UPM § 1560.10(A) provides that the beginning date of assistance for Medicaid may be one of the following: the first day of the first, second or third month immediately preceding the month in which the Department receives a signed application when all non-procedural eligibility requirements are met and covered medical services are received at any time during that particular month.
7. The Department correctly denied the Appellant's LTC Medicaid application effective [REDACTED] 2014. The Appellant is deceased and eligibility under Medicaid can be determined up to 3 months or 90 days prior to the application date. The Appellant expired on [REDACTED] 2014, 9 months prior to the application date of [REDACTED] 2014. There is no eligibility under Medicaid.

### **DISCUSSION**

The AREP testified miscommunication and lack of understanding the rules and regulations surrounding Medicaid and the application process led to the denial of a previous application for LTC benefits under Medicaid on [REDACTED] 2014. The POA and AREP failed to request a fair hearing upon notification of the denial of the Appellant's Medicaid application within the sixty-day period as outlined by Departmental regulations. Therefore, good cause is not reviewable.

### **DECISION**

The Appellant's appeal is denied.

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Lisa A. Nyren  
Hearing Officer

PC: Judy Williams, Social Services Operations Manager  
Karen Main, Social Services Operations Manager  
Nancy Sciascia, Eligibility Services Worker

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### **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.