

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 # 677622

**NOTICE OF DECISION**

**PARTY**

Attorney ██████████  
Re: ██████████  
██████████  
██████████

**PROCEDURAL BACKGROUND**

On ██████████ 2015, the Department of Social Services (the "Department") sent ██████████ (the "Applicant") a Notice of Action ("NOA") denying benefits to under the Medicaid for Long Term Care program.

On ██████████ 2015, Attorney ██████████, the Applicant's Conservator (the "Appellant") requested an administrative hearing to contest the Department's 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:

Attorney ██████████, the Appellant, conservator for the Applicant, ██████████  
██████████  
Patty Maney, Business Officer Manager, Riverside Health Care Center,  
Connie Estanislau, Department's representative  
Maureen Foley-Roy, Hearing Officer

The hearing 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 Applicant's application for medical assistance for failing to provide information was correct.

### **FINDINGS OF FACT**

1. On [REDACTED] 2014, the Applicant's daughter and Power of Attorney ("POA") was appointed the Applicant's conservator of person and conservator of estate with the stipulation that she provide documentation for a Title XIX – Medicaid for Long Term Care application. (Exhibit A: Probate Court Decree dated [REDACTED] 2014)
2. On [REDACTED] 2014, the Department received an application for a Medicaid for Long Term Care signed by the Applicant's daughter/ Power of Attorney from Riverside Health Care Center. (Exhibit 1: Long Term Care Application)
3. On [REDACTED] 2014 the Department sent a W1348- Verification We Need list to the POA. (Exhibit 8: Verification We Need forms [Request number 1])
4. On [REDACTED] 2014, the Applicant's daughter was removed as Conservator of Estate because she failed to comply with the stipulation regarding Title XIX documents. The Appellant was appointed as Conservator of Estate. (Exhibit A)
5. On [REDACTED] 2014, the Department sent a W1348 to the POA. (Exhibit 8: Request number 2)
6. On [REDACTED] 2014, the Department sent a copy of W1348 request number 2 to the facility. ( Exhibit 8)
7. On [REDACTED] [REDACTED] 2014, [REDACTED] [REDACTED] 2015 and [REDACTED] [REDACTED] 2015, subsequent W1348's were generated and sent to the Appellant via email and to the facility via regular mail. The Department also emailed the W1348's to the facility. (Exhibit 8 and Exhibit 9: Case Narrative pages 2-10)
8. On [REDACTED] 2014, the Department first requested the face and cash value of the Applicant's life insurance policy. (Exhibit 8)

9. On [REDACTED] 2015 and [REDACTED] 2015, the Appellant contacted the Department requesting information regarding the Applicant's life insurance policy as the Appellant had not submitted the original application and did not have any information regarding the life insurance policy. (Exhibits D and E: Appellant's emails to Department)
10. On [REDACTED] 2015, the Appellant emailed the Department with some of the required information and requested an extension to provide any items that were still outstanding. (Exhibit 5: Email from Appellant to the Department dated [REDACTED] 2015)
11. On [REDACTED] 2015, the Department prepared a W1348-Verification We Need request number 7 for the cash and face value of the Applicant's life insurance policy and balance of the resident's account by [REDACTED] 2015. (Exhibit 2: W1348 Verification We Need list Request number 7)
12. There is no evidence that the Department ever actually sent Request # 7. (Exhibit 10: Department's representative's statement and Appellant's Exhibit I: fax from facility dated [REDACTED] 2015)
13. On [REDACTED] 2015, the Department denied the application for Medicaid for Long term care because it had not received any response to the W1348 Verification We Need list that the Department had issued on [REDACTED] 2015. (Exhibit 3: Notice of Denial)

### **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.
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 § 1015.05 C states 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.
4. UPM § 1505.40 B 5 provides for delays in application processing due to insufficient verification in the AFDC, AABD and MA programs.

5. UPM § 1505.35 C1 c(2) provides that a standard of promptness is established as the maximum time period for processing applications. For applicants for Medical Assistance on the basis of age; that standard is forty-five calendar days.
6. UPM § 1505.40 B 5 a (1) and (2) provide that regardless of the standard of promptness, no eligibility determination is made when there is insufficient verification to determine eligibility when the Department has requested verification and at least one item of verification has been submitted by the assistance unit within a time period designated by the Department but more is needed.
7. UPM § 1505.40 B 5 b provides that an additional 10 day extension for submitting verification shall be granted, as long as after each subsequent request for verification at least one item of verification is submitted by the assistance unit within each extension period.
8. UPM § 1540.10 C 2 a-d provides that the Department obtains verification on behalf of the assistance unit when the following conditions exist: the Department has the capability to obtain the verification needed, and the assistance unit has done the following: made a reasonable effort to obtain the verification on its own; and been unable to obtain the verification needed; and requested the Department's help in obtaining the verification; and continued to cooperate in obtaining the verification.
9. The Department was incorrect when it did not respond to the Appellant's request for information regarding the life insurance policy which would assist in locating it.
10. UPM § 1505.40 B.1 (b) (1) provides that if the applicant failed to complete the application without good cause, cases are denied between the thirtieth day and the last day of the appropriate standard for processing the application.
11. The Department was incorrect when it denied the ██████████ 2014 application on ██████████ 2015 because it did not send a request for verification after it had received partial verification on ██████████ 2015.

### **DISCUSSION**

All of the evidence indicates that in spite of having reviewed the record for outstanding information and preparing request number 7, the Department never actually sent it. The facility printed and responded to each of the Department's previous requests but has no record of receiving request number 7. The Department cannot locate the "sent" email that accompanied the request. And while other narrative entries clearly state to whom and the method via which the

earlier W1348 requests were sent, the narrative entry regarding request number 7 does not contain that information.

It is also noted that prior to the denial, the Appellant asked the Department for information pertaining to the life insurance policy. Although there was not much information available regarding the policy, the Department did have knowledge that the policy was part of a retirement package and did have a copy of the Applicant's pension statement. Those items, which could be instrumental in obtaining the life insurance information, were not shared with the Appellant until the day of the hearing.

The Department's denial of the [REDACTED] 2014 application for medical assistance for long term care was incorrect because the Department did not respond to the Appellant's request for information regarding the outstanding asset and the Department never sent the final W1348-Verification We Need form.

### **DECISION**

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

### **ORDER**

The Department is to reopen and continue to process the [REDACTED] 2014 application. The Department shall issue a W1348 "Verification We Need" form listing the information regarding the Applicant's life insurance policy and any other information still needed to determine eligibility. Compliance with this order is due by [REDACTED] 2015 and shall consist of verification that the application has been reopened and the new W1348 Verification We Need list issued.

*Maureen Foley-Roy*

Maureen Foley-Roy,  
Hearing Officer

CC: John Hesterberg, Operations Manager  
DSS R.O. #11, Manchester  
Connie Estanislau, 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 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.