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

Request # 685254
Client ID #

NOTICE OF DECISION

PARTY

Re:

PROCEDURAL BACKGROUND

On 2015, the Department of Social Services (the "Department") sent (the "Appellant") a Notice of Action ("NOA") denying his application for Long Term Care Medicaid because he did not return all of the required verification.

On 2015, the Appellant's POA requested an administrative hearing to contest the Department's denial of the Appellant's application for Medicaid.

On 2015, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice requesting proof that the person requesting the hearing is an authorized representative for the Appellant.

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

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 daughter and POA
, Appellant's son-in-law
Diane Wood, Department's Representative

James Hinckley, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's denial of the Appellant's application for Medicaid because he failed to provide all the required verification without good cause, was correct.

FINDINGS OF FACT

1. [redacted] is Power of Attorney for the Appellant (the "POA"). (Record)

2. On [redacted] 2014, the Appellant was admitted to [redacted] Home and Hospital in [redacted] CT for long term care. (Testimony, Record)

3. On [redacted] 2014, the POA applied to the Department for Long Term Care Medicaid for the Appellant. (Summary)

4. The [redacted] 2014 application for Long Term Care Medicaid Lists [redacted] and [redacted] as Authorized Representatives; [redacted] is a representative of the Department of Veterans' Affairs, and [redacted] is a former caregiver for the Appellant; the application is signed by the POA but the POA is not listed as an authorized representative on the application. (Ex. 1: W-1LTC dated [redacted] 2014, Testimony)

5. On [redacted] 2014, The Appellant died. (Ex. E: Certified Copy of Death Record dated [redacted] 2014)

6. On [redacted] 2014, [redacted] Fiscal Administrative Officer for the Connecticut Department of [redacted], assumed [redacted] responsibilities with regard to the processing of the Appellant's application. (Summary, Testimony)

7. On [redacted] 2014, the Department sent its first W-1348LTC "We Need Information from You" form to Authorized Representative [redacted] and a copy of the request was emailed to [redacted] on [redacted] 2014. (Ex. 3: W-1348LTC dated [redacted] 2014 and email to [redacted] dated [redacted] 2014)

8. Between [redacted] 2014 and [redacted] 2015, the Department conducted an examination of all of the Appellant's assets during a 60-

month lookback period to evaluate whether any improper transfers of assets occurred during the period. The examination involved seven W-1348LTC request forms, and multiple emails between the eligibility worker and [redacted] and the POA. (Exhibits 3 through 18: W-1348LTC request forms dated [redacted] 2014, [redacted] 2014, [redacted] 2014 (1st), [redacted] 2014(2nd), [redacted] 2015, and [redacted] 2015, and related emails between the eligibility worker and [redacted])

9. On [redacted] 2015, the eligibility worker sent an email to [redacted] stating, "Good afternoon [redacted] Can you please send me the Bank of America statements for account ending in [redacted] for [redacted]/14-[redacted]/14. (Ex. 18: email exchange dated [redacted] 2015, [redacted] 2015 and [redacted] 2015)

10. On [redacted] 2015, [redacted] responded to the eligibility worker's email of [redacted] 2015 and stated, "Attached you will find the bank statements that the family had. They cover the period from [redacted]/2014 thru [redacted]/2014. I will be working with the family to retrieve the remaining Bank of America statements that you have requested. It would be appreciated if you can provide additional time." (Ex. 18)

11. As of [redacted] 2015, the Department had completed its examination of assets during the five year lookback period with the exception of the three-day period between the [redacted] 2014 end date of the last bank statement in its possession, and the [redacted] 2014 date the Appellant became institutionalized, and discovered no improper transfers of assets during the period. (Department testimony)

12. On [redacted] [redacted] 2015, the Department sent a W-1348LTC form requesting, "Please provide bank statements from Bank of America for account ending in [redacted] for [redacted]/14-[redacted]/14". The request had a due date of [redacted] 2015. (Ex. 19: W-1348LTC form dated [redacted] 2015)

13. The Department needed the bank statements covering [redacted] 2015 through [redacted] 2015 to determine whether the Appellant's assets were below the $1,600.00 Medicaid asset limit as of the date he needed Medicaid coverage to begin. (Department testimony)

14. On [redacted] 2015, the Department sent a NOA to the Appellant's representatives notifying them that the Appellant's application for Medicaid was denied for the reason: you did not return all of the required verification we asked for. (Ex. 21 and 22: NOA dated [redacted] 2015)

15. On [redacted] 2015, [redacted] sent an email to the eligibility worker stating, "This is to inform you that I followed up with Bank of America on

the last of the statements. The statements were mailed on /2015 to the address on record and unfortunately it is an old address which most likely will cause the statements to be returned to the bank. In speaking with my contact I expressed the urgency of getting these statements. She will be placing another request along with a request to have them sent to the branch. She will let me know when she is in receipt of them. Please grant additional time as this situation is out of my control." (Ex. 23: email from dated 2015)

16. On 2015, the eligibility worker responded to email of the same date, stating, the verification was due on /15. The L01 application has been denied as of /15." (Ex. 24: email from eligibility worker dated 2014)

17. On 2015, provided the Bank of America statements for the period 2014 through 2014 to the Department, but was told that the application could not be reopened. (Appellant Ex. C: Summary of Case)

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 that 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.

   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 applying 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: 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.

UPM § 1540.10 provides that the verification of information pertinent to an eligibility determination or a calculation of benefits is provided by the assistance unit or obtained through the direct efforts of the Department.

A. The assistance unit bears the primary responsibility for providing evidence to corroborate its declarations.
B. The assistance unit may submit any evidence which it feels will support the information provided by the unit.
C. The Department obtains verification on behalf of the assistance unit when the following conditions exist:
    1. the Department has the internal capability of obtaining the verification needed through such means as case files, microfiche records, or direct access to other official records; or
    2. the Department has the capability to obtain the verification needed, and the assistance unit has done the following:
        a. made a reasonable effort to obtain the verification on its own; and
        b. been unable to obtain the verification needed; and
        c. requested the Department's help in obtaining the verification; and
        d. continued to cooperate in obtaining the verification.
    3. when the evidence necessary can only be obtained by payment of a fee, and the Department is able to obtain the evidence.
D. The Department considers all evidence submitted by the assistance unit or received from other sources.

UPM § 1505.40(A)(4)(a) provides that the Department may complete the eligibility determination at any time during the application process when the applicant refuses to cooperate in completing an eligibility requirement rendering the entire assistance unit ineligible.

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.

3. The Appellant did not refuse to cooperate with the application process; there was no deliberate refusal to provide the requested information, or failure to request the necessary information from the appropriate source.

4. The Appellant had good cause for not providing the information requested on the Department's final W-1348LTC by the [redacted] 2015 due date, because the information was unavailable to the Appellant by the due date, and the delay was caused by the time needed by the bank to perform the research, and an error of the bank in sending the information to an incorrect address.

5. The Appellant's good cause extended beyond the [redacted] 2015 due date of the Department's W-1348LTC, because as of [redacted] 2015, the Appellant was still awaiting the information from the bank.

6. The Department was incorrect to deny the Appellant's application on [redacted] 2015, because good cause still existed as of [redacted] 2015, and because the Department is required to continue to process a Medicaid application beyond the processing standard when good cause exists, until good cause no longer exists, or until the application is complete.

DISCUSSION

As of the [redacted] 2015 date the Department denied the Appellant's application, the Appellant was continuing to make a good faith effort to provide the requested verifications. The Appellant was neither refusing to cooperate, nor failing to cooperate – the delay in acquiring the verifications was caused by a third party.

UPM § 1505.35(D)(2)(a) provides that the Department must continue to process applications beyond the standard of promptness when the client has good cause for not submitting verification by the deadline. The Department set a deadline of [redacted] 2015 to provide the information, but it was impossible for the Appellant to meet that deadline because of the existence of good cause.

The Department testified that it did not reopen the application because the Appellant did not report the good cause until [redacted] 2015, after the case had already been denied. There is no requirement in the UPM that the existence of good cause must be reported by the deadline. If it is established that good cause existed as of the deadline, and that it continued to exist as of the date of denial, then it is appropriate to reopen the application and continue to process it.

DECISION

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

ORDER

1. The Department shall reopen the Appellant's Medicaid application as of the original [redacted] 2014 application date.

2. The Department shall provide proof of compliance with this order to the undersigned no later than [redacted] 2015.

James Hinckley
Hearing Officer

cc: Musa Mohamud, SSOM, Hartford
Elizabeth Thomas, SSOM, 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, law, and 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 Legal Counsel, Regulations, and Administrative Hearings, 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, if 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 his 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.