

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 # 692511
Client ID # ██████████

NOTICE OF DECISION

PARTY

██████████
C/O ██████████
██████████
██████████

PROCEDURAL BACKGROUND

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

On ██████████, 2015, the Appellant's spouse requested an administrative hearing to contest the Department's decision to deny the Appellant'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.

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 Spouse
Attorney ██████████, for the Appellant
██████████, for the Appellant
Emily Loveland, Department's Representative
Melissa Juliano, Department's Representative
Thomas Monahan, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Appellant's application for LTC due to failure to submit information needed to establish eligibility was correct.

FINDINGS OF FACT

1. On [REDACTED] 2014, the Appellant applied for Medicaid LTC Assistance. (Exhibit A: Application Part 1: Assistance Request, [REDACTED]/14)
2. The Appellant entered [REDACTED] (the "Facility") on [REDACTED] 2014. (Hearing record)
3. The Appellant's spouse is his Power of Attorney and lives in the community. (Ex. C: LTC Application)
4. The Appellant's spouse authorized Attorney [REDACTED] and [REDACTED] to assist her with the application. (Ex. C: LTC Application)
5. The Appellant's spouse receives treatment for depression. (Appellant's Ex. 1: Letter from [REDACTED] M.D., [REDACTED]/15)
6. Multiple verifications were difficult to obtain due the Appellant's spouse's depression. (Hearing record)
7. On [REDACTED] 2014, the Department sent the Appellant a "We Need Verification" form ("W-1348LTC") requesting the Appellant complete the LTC application form and submit income, asset, personal information and additional verifications. (Exhibit B: W-1348LTC, [REDACTED]/14)
8. The Department received the completed LTC application on [REDACTED], 2014. (Ex. U: Case narrative)
9. On [REDACTED], 2014, the Department sent the Appellant's POA and authorized representatives a Verification We Need form requesting verification of income, asset and personal information of the Appellant and his spouse. (Ex. D: Verification We Need, [REDACTED]/14)
10. On [REDACTED] 2014, the Department received some of the requested verifications. (Exhibit E: Case Narrative, p. 4)
11. On [REDACTED] 2014, the Department sent the Appellant's POA and authorized representatives a Verification We Need form requesting

- verification of medical insurance, asset information and verification the Appellant has applied for V.A. services. (Ex. F: Verification We Need, [REDACTED]/14)
12. On [REDACTED] 2014, after reviewing additional verifications received, the Department sent the Appellant's POA and authorized representatives a Verification We Need form requesting verification of asset information and verification that the Appellant has applied for V.A. services. (Hearing summary, Ex. G: Verification We Need, [REDACTED]/14)
 13. On [REDACTED], 2014, after reviewing additional verifications received, the Department sent the Appellant's POA and authorized representatives a Verification We Need form requesting verification of asset information and verification that the Appellant has applied for V.A. services. (Hearing summary, Ex. H: Verification We Need, [REDACTED]/14, Ex. I: Case Narrative p.9)
 14. On [REDACTED], 2015, after reviewing additional verifications received, the Department sent the Appellant's POA and authorized representatives a Verification We Need form requesting verification of asset information and verification that the Appellant has applied for V.A. services. (Hearing summary, Ex. J: Verification We Need, [REDACTED]/15)
 15. On [REDACTED] 2015, after reviewing additional verifications received, the Department sent the Appellant's POA and authorized representatives a Verification We Need form requesting verification of asset information and verification that the Appellant has applied for V.A. services. (Hearing summary, Ex. K: Verification We Need, [REDACTED]15)
 16. On [REDACTED], 2015, after reviewing additional verifications received, the Department sent the Appellant's POA and authorized representatives a Verification We Need form requesting verification of asset information and verification that the Appellant has applied for V.A. services. (Hearing summary, Ex. L: Verification We Need, [REDACTED]3/15)
 17. On [REDACTED], 2015, after reviewing additional verifications received, the Department sent the Appellant's POA and authorized representatives a Verification We Need form requesting verification of asset information and verification that the Appellant has applied for V.A. services. (Hearing summary, Ex. M: Verification We Need, [REDACTED]/15)
 18. On [REDACTED] 2015, after reviewing additional verifications received, the Department sent the Appellant's POA and authorized representatives a Verification We Need form requesting verification of asset information and verification that the Appellant has applied for V.A. services. (Hearing summary, Ex. N: Verification We Need, [REDACTED]/15)

19. On [REDACTED] 2015, after reviewing additional verifications received, the Department sent the Appellant's POA and authorized representatives a Verification We Need form requesting verification of asset information and verification that the Appellant has applied for V.A. services. The information was due [REDACTED], 2015. (Hearing summary, Ex. N: Verification We Need, [REDACTED]/15)
20. The Appellant's authorized representative requested an extension to provide the requested information and the Department extended the due date until [REDACTED], 2015. (Ex. S: Emails 4/8 and 4/9)
21. On [REDACTED], 2015 the Department's representative sent an email to the authorized representative stating that the case would be denied if no information is received by the end of business on [REDACTED], 2015. (Ex. T: Email from Department to Authorized Representative)
22. On [REDACTED], 2015, the Department denied the Appellant's LTC application for failure to supply the requested information on the Verification We Need form sent [REDACTED] 2015. (Ex. U: Case Narrative p. 13)
23. On [REDACTED] 2015, the Appellant's authorized Representative emailed the Department prior to becoming aware of the denial stating she thought the Department was sending another Verification We Need form and would take care of the latest request for information that day. (Ex. T: Email from Authorized representative to Department)
24. On [REDACTED] 2015 and [REDACTED] 2015, the Department received from the authorized representative some of the additional information that was requested prior to the [REDACTED], 2015 denial of the Appellant's LTC application. (Ex. U: Case narrative p. 14)
25. On [REDACTED] 2015, the Department received a phone call from attorney [REDACTED] requesting the application be reopened to the original application date of [REDACTED] 2015. He stated that the deadline was not met because the Appellant's spouse is partially incapacitated. (Ex. U: Case narrative p. 14)
26. The Department did not reopen the application to the original application date of [REDACTED] 2015. (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 that the Department requires to determine eligibility and calculate the amount of benefits.
3. Regulation 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 § 1015.10 (A)
4. The Department correctly sent the Appellant multiple Application Verification Requirements lists requesting information needed to establish eligibility.
5. Regulation 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 (C)
6. Regulation 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 § 1505.35 (D) (2)
7. Regulation 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. The assistance unit bears the primary responsibility for providing evidence to corroborate its declarations. UPM § 1540.10 (A)
8. Regulation 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) (a)

9. Regulation 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 § 1505.40(B)(4)(b)
10. The Appellant's medical condition prevented her from completing requested actions within Departmental Deadlines.
11. The Appellant showed good cause in missing the last deadline for providing the most recent requested verifications.
12. The Department incorrectly denied the Appellant's 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 LTC assistance is not upheld. Regulations require that an application must remain pending as long as the Appellant shows good cause for not providing at least one requested item before the due date given. The Appellant and her representatives cooperated throughout the application process. Evidence indicates that the Appellant took time to compile requested verifications and that her representatives attempted to help her complete the requirements requested by the Department. Good cause for not submitting the most recent requested information by the due date was established. The Department must reopen the Appellant's application to the original application date and send the Appellant's representatives another Verification We Need form if necessary.

DECISION

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

ORDER

1. The Department will reopen the Appellant's LTC application as of [REDACTED] 2014 and request any outstanding verification necessary to complete the application.

2. The Department will submit to the undersigned verification of compliance with this order by providing a copy of the Appellant's EMS status screen no later than [REDACTED] 2015.

Thomas Monahan
Thomas Monahan
Hearing Officer

C: Musa Mohamud, Operations Manager, Hartford Regional Office
Elizabeth Thomas, Operations Manager, Hartford Regional Office
Emily Loveland, Hearing Liaison
[REDACTED]

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.