

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 # 704625

NOTICE OF DECISION

PARTY

████████████████████
For ██████████
██████████
████████████████████
████████████████████

PROCEDURAL BACKGROUND

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

On ██████████ 2015, Attorney ██████████, (the "Appellant") Conservator for the Applicant, 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:

████████████████████ Conservator for the Applicant, ██████████
Yadira McLaughlin, Department's representative
Maureen Foley-Roy, Hearing Officer

The hearing record remained open until [REDACTED] 2015. 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. The Applicant is a resident of a long term care facility and is not capable of handling her own affairs. (Appellant's testimony, Department's summary)
2. On [REDACTED], 2015, the Department received an application for Medicaid for long term care which was completed by the Applicant's son who was her conservator at the time. (Exhibit 1: Long Term Care/Waiver Application)
3. On [REDACTED], 2015, [REDACTED] 2015, [REDACTED], 2015, [REDACTED], 2015 and [REDACTED], 2015, the Department sent copies of W1348-Verification We Need forms to the Applicant's son and then conservator as well as to the facility requesting information necessary to determine eligibility (Exhibits 2 through 6: Verification We Need forms)
4. In response to the requests for information, the Department was receiving minimal information or requests for extension of the deadlines for providing the information. (Department representative's testimony)
5. On [REDACTED], 2015, the Probate Court removed the Applicant's son as conservator and appointed a new conservator. (Exhibit 7: Probate court document dated [REDACTED], 2015)
6. On [REDACTED], 2015, the new conservator submitted a letter to the probate court resigning as conservator. (Exhibit 8: Letter dated [REDACTED], 2015)
7. There is no evidence that the conservator who was appointed on [REDACTED] 2015 and resigned on [REDACTED], 2015 advised either the Department or the facility of his resignation.
8. On [REDACTED] 2015, the facility's attorney requested that the Department grant another extension to provide the outstanding information. The Department sent a copy of the Request # 5 Verification We Need list to the nursing home and to the conservator who had resigned on [REDACTED] 2015. (Department's summary)

9. On [REDACTED], 2015, the facility staff contacted the Department to request another extension of the deadline to provide the outstanding information. The Department extended the deadline to [REDACTED], 2015. (Department's summary)
10. On [REDACTED] 2015, the facility staff notified the Department that the conservator had resigned and that they had contacted the probate court in regards to naming another conservator. The staff also requested another extension for providing information. (Exhibit 9: Letter to Probate Judge and Department's summary)
11. On [REDACTED] 2015, the Department did not allow an extension and denied the application for Long Term Care for failing to provide the information necessary to determine eligibility. (Exhibit 11: Notice of Denial)
12. On [REDACTED], 2015, a new conservator was appointed for the Applicant. (Exhibit 10: Probate Court document dated [REDACTED], 2015)
13. On [REDACTED], 2015, the newly appointed Conservator contacted the Department who advised him to complete a new application. As of the date of hearing, no new application had been filed. (Department's summary)

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 § 1505.35 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.
5. 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.

6. 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.
7. The Department was correct when it issued the numerous W1348-Verification We Need forms with a listing of outstanding information needed to determine eligibility.
8. UPM § 3525.05 C 2 provides that a penalty for noncooperation with the application and review processes is not imposed due to the failure of a representative to act in the best interests of an incompetent or disabled assistance unit, which is considered good cause for noncompliance.
9. UPM § 1505.40 B 4 a (1) and (2) 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; either eligibility cannot be determined or determining eligibility without the necessary information would cause the application to be denied.
10. UPM § 1505.40 B 4 b (1) and (2) provides that if the eligibility determination is delayed, the Department continues to process the application until either the application is complete or good cause no longer exists.
11. The Department was incorrect when it denied the application for failing to provide information because there were unusual circumstances beyond the Applicant's control. Her conservators had failed to represent her and the process to find another conservator had been initiated but not finalized.

DISCUSSION

The circumstances of this case are unusual and certainly frustrating. The Department faces a great deal of scrutiny regarding the timeliness of application processing. This application was pending for five months and there was minimal cooperation in obtaining the required information. When the final deadline arrived and the requested information was not provided, denying the application would have been the appropriate action under **normal** circumstances. The undersigned certainly recognizes the difficulty of the Department's position in that the application had been pending well beyond the standard of promptness,

information was not forthcoming and there was no one representing the Applicant who was even working on obtaining the requested information. However, the regulations for medical assistance do allow for such unusual circumstances. The Department was aware that the Applicant was incapable of managing her affairs and that the probate court was involved in obtaining representation for her. The Department should not have denied the application before the new conservator was named.

DECISION

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

ORDER

The Department is to reopen and continue to process the [REDACTED], 2015 application, sending W1348, Verification We Need forms to the new conservator. Compliance with this order is due by [REDACTED], 2015 and shall consist of documentation that the [REDACTED], 2015 application has been reopened.

Maureen Foley-Roy
Maureen Foley-Roy,
Hearing Officer

CC: Poonam Sharma, DSS Operations Manager, Bridgeport,
Fred Presnick, SSOM
Yecenia Acosta, SSPM
Cheryl Stuart, SSPM
Yadira McLaughlin, DSS Eligibility, Bridgeport

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.