STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3725

[REDACTED] 2016
SIGNATURE CONFIRMATION

REQUEST #736167

CLIENT ID #[REDACTED]

NOTICE OF DECISION

PARTY

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED] 2015, the Department of Social Services (the "Department"; or "DSS"), sent [REDACTED] (the "Appellant") a Notice of Denial stating that her application for medical assistance under the Medicaid program had been denied, because she did not return all of the required verifications requested.

On [REDACTED] 2015, the Appellant's representative, [REDACTED], requested an administrative hearing on behalf of the Appellant to contest the Department's denial of the Appellant's application for medical assistance.

On [REDACTED] 2015, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice of Administrative Hearing scheduling a hearing for [REDACTED] 2015 @ [REDACTED] to address the Department's denial of the Appellant's application for medical assistance.

OLCRAH granted the Appellant's Representative a continuance.

On [REDACTED] 2016, 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 to address the Department's denial of the Appellant's application for medical assistance.

The following individuals were present at the hearing:

[REDACTED], Appellant's Representative/Granddaughter
Attorney Charles Donald Neville, Counsel for Hebrew Health Care/Witness

Ilirjana Sabani, Representative for the Department
Hernold C. Linton, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Appellant failed, without good cause, to provide the Department with requested verification or information necessary to establish her eligibility for medical assistance under the Medicaid program.

FINDINGS OF FACT

1. On [redacted] 2015, the Department received the Appellant's application for medical assistance under Medicaid program. (Hearing Summary; Dept.'s Exhibit C: [redacted]15 Notice of Denial)

2. On [redacted] 2015, the Department sent the Appellant's representative a third (#3) Verification We Need (Form "W-1348LTC") requesting information or verification regarding the Appellant's bank accounts and financial transactions, and a copy of the Appellant's Inventory of Assets filed with Probate Court. (Hearing Summary; Dept.'s Exhibit B: [redacted]15 W-1348LTC)

3. The W-1348LTC informed the Appellant's representative of the outstanding verifications needed to process the application for medical assistance, and the due date of [redacted] 2015, by which to provide the requested information, or else her benefits may be delayed or denied. (Hearing Summary; Dept.'s Exhibit B)

4. The W-1348LTC also informed the Appellant's representative that email is the best way to communicate with the worker, and that the worker is able to respond to more emails in a day than voicemails. (Dept.'s Exhibit B)

5. The Appellant's representative provided the Department with some of the requested information. (Dept.'s Exhibit A: Case Narrative)

6. On [redacted] 2015, the Department sent the Appellant's representative its fifth (#5) W-1348LTC requesting the remaining information or verifications still needed to determine the Appellant's eligibility for medical assistance, with a due date of [redacted] 2015. (Hearing Summary; Dept.'s Exhibit B: [redacted]/15 W-1348LTC)

7. On [redacted] 2015, the Appellant's representative sent an email to the Department with some of the requested information: cancelled checks [redacted], [redacted], explanations for financial transactions, mortgage statement, a statement that the Appellant had closed her MetLife policy, verification of car insurance, and verification of car payment. The representative also informed the Department that

some of the requested verifications were previously provided to the Department. (Dept.'s Exhibit A; Dept.'s Exhibit D: Email)

8. On [redacted] 2015, the Department's received an email from the facility (Hebrew Health Care) stating that a hearing was scheduled in Probate Court regarding the Appellant's condo. (Dept.'s Exhibit A)

9. The Department's review of the processing of the Appellant's case noticed that some of the verifications requested on the W-1348LTC (#5) were previously provided by the Appellant's Representative, and that some of the requests were for verification of financial transactions of less than $5,000.00. (Dept.'s Exhibit A)

10. On [redacted] 2015, the Department sent the Appellant's representative its sixth W-1348LTC requesting the remaining information or verifications still needed to determine the Appellant's eligibility for medical assistance, with a due date of [redacted] 2015. (Hearing Summary; Dept.'s Exhibit B: [redacted]15 W-1348LTC)

11. On [redacted] 2015, the Appellant's representative provided the Department with some of the requested information via an email. (Dept.'s Exhibit A)

12. On [redacted] 2015, the Department sent the Appellant's representative its seventh W-1348LTC requesting the remaining information or verifications still needed to determine the Appellant's eligibility for medical assistance, with a due date of [redacted] 2015. (Hearing Summary; Dept.'s Exhibit B: [redacted]15 W-1348LTC)

13. On [redacted] 2015, the Appellant's representative called the worker and left a voicemail message stating that she was unable to answer her phone while she was at work. The worker returned the Appellant's call and left a voicemail message stating that bank statements were still needed, and that she was to call or email the worker with any issues. (Dept.'s Exhibit A)

14. On [redacted] 2015, the Appellant's representative provided the Department with bank statements for the Appellant's accounts and an email stating that she was unable to locate a Met Life policy for the Appellant, and that the Jackson National account was closed. (Dept.'s Exhibit A)

15. On [redacted] 2015, the Department sent the Appellant's representative its eight W-1348LTC requesting the remaining information or verifications still needed to determine the Appellant's eligibility for medical assistance, with a due date of [redacted] 2015. (Hearing Summary; Dept.'s Exhibit B: [redacted]15 W-1348LTC)

16. On [redacted] 2015, the Appellant's representative sent the Department an email stating that MetLife informed her that the Appellant's life insurance was

cancelled and that she had requested documentation of the cancellation, and that the deposit of $9,430.18 was from the cashing out the Appellant's MetLife policy. She also stated that she had four storage bins of documents for the Appellant that she needed to go through to see she if she could locate the remaining information or verifications still needed to determine the Appellant's eligibility for medical assistance. (Dept.'s Exhibit A)

17. The Appellant's representative requested an extension of the due date by which to provide the Department with the outstanding verifications still needed to process the Appellant's application for medical assistance. (See Facts # 1 to 16; Dept.'s Exhibit D)

18. On [redacted] 2015, the worker called the Appellant's representative and left a voicemail message with contact information. (Dept.'s Exhibit A)

19. On [redacted] 2015, the Department denied the Appellant's application for medical assistance under the Medicaid program for failure to provide all of the required verifications requested. (See Facts # 1 to 18; Hearing Summary; Dept.'s Exhibit C)

20. The Department did not send another W-1348LTC to the Appellant's representative after receiving a response, prior to the Department's denial, to the W-1348LTC that was sent on [redacted] 2015, explaining the Appellant's financial transactions, steps taken to obtain the requested verifications that were still outstanding, and requesting an extension of the due date by which to provide the remaining verifications. (See Facts # 1 to 19)

21. On [redacted] 2015, the Department received the Appellant's reapplication for medical assistance under Medicaid program. (Hearing Summary; Dept.'s Exhibit A)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes (CGS) authorizes the Commissioner of the Department of Social Services to administer the Medicaid program.

2. Section 17b-260 of the Connecticut General Statutes authorizes the commissioner of social services to take advantage of the medical assistance programs provided in Title XIX, entitled "grants to States for Medical Assistance Programs," contained in the Social Security Amendments of 1965.

3. 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.

4. UPM § 1010.05(A)(2) provides that the assistance unit must permit the Department to verify information independently whenever the unit is unable to provide the necessary information, whenever verification is required by law, or whenever the Department determines that verification is necessary (Cross reference: 1540).

5. The Appellant's representative did provide the Department with some of the verifications regarding the Appellant's bank accounts and financial transactions as requested.

6. UPM § 1015.05(C) provides 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.

7. 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.

8. UPM § 1505.40(A)(1) provides that prior to making an eligibility determination the Department conducts a thorough investigation of all circumstances relating to eligibility and the amount of benefits.

9. UPM § 1505.40(B)(2)(b) provides that if the eligibility determination is delayed, the Department continues to process the application until a decision can be made.

10. UPM § 1505.40(B)(3) provides that the following provisions apply if subsequent to an administrative delay the applicant becomes responsible for not completing the application process:

    a. for AFDC, AABD and MA applications, the Department:

        (1) determines eligibility without further delay; or

        (2) continues to pend the application if good cause can be established or if a 10 day extension is granted.

11. The Appellant's representative has been diligent in providing the Department in a timely manner with requested verifications that were readily available. However, the delay in providing the remaining verifications that were still outstanding is attributed to a third party (MetLIfe).

12. The Appellant's representative requested an extension to go through four large bins of documents for the Appellant to possible locate the remaining verifications that were still outstanding. However, the Department did not grant the request.

13. 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.

14. UPM § 1505.40(B)(5)(a) provides that regardless of the standard of promptness, no eligibility determination is made when there is insufficient verification to determine eligibility when the following has occurred:

    1. the Department has requested verification; and

    2. 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.

15. UPM § 1505.40(B)(5)(b) provides that additional 10 day extensions 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.

16. Although the Department did send the Appellant's representative multiple W-1348LTC's requesting information needed to determine the Appellant's eligibility for medical assistance, the Department did not send an additional W-1348LTC after receiving a response explaining some of the Appellant's financial transactions, and requesting additional time to secure the remaining information requested on the last W-1348LTC, sent on [redacted] 2015.

17. 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.

18. UPM § 1540.10(A) provides that the assistance unit bears the primary responsibility for providing evidence to corroborate its declarations.

19. The Department did not send an additional W-1348LTC to the Appellant's representative after receiving some of the information previously requested.

20. The Appellant's representative did submit some of the outstanding information regarding the Appellant's bank accounts, life insurance policy, and financial transactions to the Department prior to the denial of the Appellant's application for medical assistance.

21. The Department incorrectly denied the Appellant's application for medical assistance, for failure to provide requested information, as the Appellant's representative did submit some of the requested information regarding the Appellant's countable assets and financial transactions to the Department prior to the denial of her application. However, the Department did not follow up by sending an additional W-1348LTC to the Appellant's representative requesting the remaining verifications as well as granting the request for an extension of the due date.

DISCUSSION

As a result of the Alvarez vs. Aronson lawsuit the Department made revisions to the policy and procedures concerning the process of verification, [See UP-90-26; UPM § P-1540.10(4); Verification and Documentation Guidelines, 10/90]. One of these changes was the requirement that a Verification We Need ("W-1348LTC") be used when requesting verifications from an applicant. This requirement was instituted to make sure that the applicant had a clear understanding of exactly what verification is needed, the due dates, and other acceptable forms of verifications. The policy also provides for the mailing of additional W1348 forms where some of the information previously requested has been provided. In the present case the, although the Department did provide the Appellant's representative with multiple W-1348LTC's, after receiving some of the information previously requested, the Department did not send an additional W-1348LTC to the Appellant's representative, after receiving a response to its final W-1348LTC requesting an extension to provide the remaining information. Thus not giving proper notice to the Appellant's representative of what she still needed to do in order to establish the Appellant's eligibility for medical assistance.

The Appellant's representative did provide the Department with an explanation regarding some of the Appellant's financial transactions, as well as requested additional time to sort through four bins of papers belonging to the Appellant, hoping to locate the remaining verifications that were still outstanding. However, the Department did not provide the Appellant's representative with a written response regarding the explanation provided and the request for additional time. Consequently, the undersigned finds that the Department's denial of the Appellant's application for medical assistance, for failure to provide requested verification needed to establish her eligibility to be invalid.

DECISION

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

ORDER

1. The Department will reopen the Appellant's [redacted] 2015 application for medical assistance, based on the findings of this hearing decision.

2. The Department will send the Appellant's representative an additional W-1348LTC requesting the remaining verifications still outstanding, and granting an extension to provide the remaining verifications.

3. No later than thirty (30) days from the date of this hearing decision, the Department will provide the undersigned with a copy of the STAT Screen and W-1348LTC as proof of the Department's compliance with this order

Hernold C. Linton

Hernold C. Linton
Hearing Officer

Pc: **Musa Mohamud,** Social Service Operations Manager, DSS, R.O. #10, Hartford

Elizabeth Thomas, Social Service Operations Manager, DSS, R.O. #10, Hartford

Patricia Ostroski, Social Service Program Manager, DSS, R.O. #10, Hartford

Tricia Morelli, Social Service Program Manager, DSS, R.O. #10, Hartford

Laurie Fillippini, Social Service Program Manager, DSS, R.O. #10, Hartford

Fair Hearing Liaisons, DSS, R.O. #10, Hartford

[redacted], Conservator
[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 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 06105-3725.

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.