

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3730

██████████ 2016
Signature Confirmation

Client ID # ██████████
Request # 738753

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2015, Department of Social Services (the “Department”) sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) denying his application for Medicaid Long Term Care Assistance (LTSS) benefits.

On ██████████ 2015, 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, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice rescheduling the administrative hearing for ██████████ 2016.

On ██████████ ██████████ 2016, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice rescheduling the administrative hearing for ██████████ 2016.

On ██████████ 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.

The following individuals were present at the hearing:

Attorney [REDACTED], Appellant's Conservator of Person and Estate
 Jacqueline Mastracchio, Department's Representative via telephone conference
 Miklos Mencseli, Hearing Officer

The Appellant was not present.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly denied the Appellant's LTSS application because of failure to submit information needed to establish eligibility.

FINDINGS OF FACT

1. The Appellant is a 77 year old male residing at [REDACTED] Manor.
 (Exhibit D: Department's Ascend printout)
2. On [REDACTED] 2015, the Department received the Appellant's application for LTSS benefits. (Testimony)
3. The Appellant is married and has a community spouse. (Summary, Testimony)
4. The Department provided the Appellant a W-1 SA Determination of Spousal Assets form. (Summary)
5. The Appellant and his spouse have been separated for over twenty years.
 (Appellant Exhibit 1: Appellant's Conservators Brief dated [REDACTED]-16, Testimony)
6. On [REDACTED] 2015, the Appellant's Conservator sent a letter to the Appellant's wife, [REDACTED]. The Appellant's wife lives in Texas with her daughter. The letter is requesting her to complete the W-1 SA form and return it. (Exhibit B: letter dated [REDACTED] 15, Exhibit 1, Testimony)
7. On [REDACTED] 2015, the Appellant's Conservator sent the Department a letter responding to the Department's second request for additional information. The letter states she is in contact with [REDACTED] and she agreed to complete the W-1 SA form. (Exhibit A: letter dated [REDACTED]-15)
8. On [REDACTED] 2015, the Department having not received a completed W-1 SA, denied the Appellant's application for medical assistance for failure to provide information necessary to establish eligibility. (Summary)

9. The Appellant's Conservator has been in contact with the Appellant's spouse. She has spoken by phone with [REDACTED]. (Appellant Exhibit 1, Testimony)
10. The Appellant's spouse stated her income is from Social Security and a pension. [REDACTED] does have assets; 2008 Chevy Cobalt, land in [REDACTED] [REDACTED], Colorado with an approximate value of \$12,000.00. She has no stocks or bonds. (Appellant Exhibit 1)
11. The Appellant's spouse has provided a letter verifying her monthly pension amount and a copy of her Medicare Health Insurance card. (Appellant Exhibit 2: letter dated [REDACTED]-15 with copy of Medicare card)
12. The Appellant's Conservator after receiving the verifications in Fact #11, contacted [REDACTED] regarding the completion of the W-1 SA. (Appellant Exhibit 1)
13. The Appellant's Conservator has not received a completed W-1 SA from the Appellant's spouse [REDACTED].

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. Conn. Gen. Stat. § 17b-285. (Formerly Sec. 17-134gg). Assignment of spousal support of an institutionalized person or person in need of institutional care. Notwithstanding any provision of the general statutes, an institutionalized person or person in need of institutional care who applies for Medicaid may assign to the Commissioner of Social Services the right of support derived from the assets of the community spouse of such person but only if (1) the assets of the institutionalized person or person in need of institutional care do not exceed the Medicaid program asset limit; and (2) the institutionalized person or person in need of institutional care cannot locate the community spouse; or the community spouse is unable to provide information regarding his or her own assets. If such assignment is made or if the institutionalized person or person in need of institutional care lacks the ability to execute such an assignment due to physical or mental impairment, the commissioner may seek recovery of any medical assistance paid on behalf of the institutionalized person or person in need of institutional care up to the amount of the community spouse's assets that are in excess of the community spouse protected amount as of the initial month of Medicaid eligibility.
3. Uniform Policy Manual ("UPM") § 4025.69 provides for Assignment of Support Rights - MCCA Spouses

- A. The Department does not deem assets from a community spouse (CS) to his or her institutionalized spouse (IS) if:
 1. the institutionalized spouse has assigned his or her support rights from the community spouse to the department (Cross References: 1507.05, 4025.67); or
 2. the institutionalized spouse cannot execute the assignment because of a physical or mental impairment (Cross References: 1507.05, 4025.67); or
 3. undue hardship exists (Cross Reference: 4025.68).
- B. The assignment of support rights described in section 4025.69 A. is a separate assignment made for the specific purpose that the Department not deem assets from the CS to the IS. It is not the general automatic assignment that accompanies a Medicaid application (Cross Reference: 7520).
- C. The assignment of support rights described in section 4025.69 A. may be made only if:
 1. the IS's assets do not exceed the Medicaid asset limit; and
 2. the IS cannot locate the CS, or the CS is unable to provide information regarding his or her own assets.
4. The Department correctly determined the Appellant does not meet the criteria to assign his rights of spousal support. His community spouse location is known and she has provided some verification as to her income and assets
5. UPM Section 1545.05(D)(1) provides that if the eligibility of the assistance unit depends directly upon a factor or circumstance for which verification is required, failure to provide verification results in ineligibility for the assistance unit. Factors on which unit eligibility depends directly include, but are not limited to:
 - a. income amounts;
 - b. asset amounts.
6. The Appellant did not provide the Department with the requested verification.
7. The Department correctly denied the Appellant's [REDACTED] 2015 medical assistance application on [REDACTED] 2015, for failure to provide information necessary to establish eligibility.

DISCUSSION

The Department correctly followed its procedural and eligibility requirements in processing the Appellant's application. The Department correctly sent the Appellant a verification request form. The Department could not determine eligibility without receiving the W-1SA form.

DECISION

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



Miklos Mencseli
Hearing Officer

C: Cheryl Parsons, Operations Manager, Norwich DSS R.O. # 40

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.