

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

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

Request # 746922

Client ID # ██████████

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2016, the Department of Social Services (the "Department") sent ██████████, the attorney for ██████████ (the "Appellant") a Notice of Action ("NOA") denying the Appellant's Medicaid application for Long Term Care ("LTC") benefits.

On ██████████, 2016, the Appellant requested an administrative hearing to contest the Department's decision to deny the Appellant's application for Medicaid.

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

On ██████████ 2016, 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:

Attorney ██████████, for the Appellant
██████████, for the Appellant
Natosha Douglas, Department's Representative
Tierra McClain, Department's Representative

Thomas Monahan, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly denied the Appellant's Long Term Care Medicaid application due to excess assets.

FINDINGS OF FACT

1. On [REDACTED] 2015, the Appellant applied for Medicaid LTC Assistance. (Exhibit 1: LTC Application)
2. The Appellant entered Autumn Lake Healthcare [REDACTED] (the "Facility") on [REDACTED] 2014. (Ex. 10: Case narrative)
3. [REDACTED] the Appellant's Power of Attorney named Attorney [REDACTED] as the Appellant's authorized representative. (Hearing record, Ex. 1: LTC Application)
4. On [REDACTED] 2015, the Department sent the Appellants attorney a "Verification We Need" form ("W-1348LTC") requesting the Appellant provide the following verifications: Anthem insurance premiums, assets in bank accounts, savings bonds and the facility trust account balances, funeral contract, real estate and car ownership. The Department also requested an explanation of certain large bank account transactions. The Verification We Need form notified the client that asset limit for eligibility is \$1,600.00. (Exhibit 2: Verification We Need, [REDACTED]/15)
5. The Department received some of the requested verifications by [REDACTED] 2015. (Ex 10: Case Narrative)
6. On [REDACTED] 2015, the Department sent the Appellant's attorney a Verification We Need form requesting explanations for bank transactions of \$5,000.00 or more and bank statements from First County Bank from [REDACTED] 2015 through the present date; a copy of the Appellant's funeral contract; verification of U.S. Treasury Bonds; verification of the source of a bank deposit of \$13,313.36 on [REDACTED] 2013 and an explanation of a [REDACTED] 2015 withdrawal from the Appellant's bank account. (Ex. 3: Verification We Need, [REDACTED]/15)
7. On [REDACTED] 2015, the Department received some of the requested verifications. The Department received bank statements, verification of the [REDACTED] 2013 bank deposit, and copies of the Appellant's savings bonds. (Ex. 10: Case narrative)

8. On [REDACTED] 2015, the Department sent the Appellant's attorney a Verification We Need form requesting current First County bank statements; the Appellant's account at the facility from the date opened to the present; proof that the Appellant's assets were reduced; proof that the Appellant's savings bonds have been redeemed; a copy of the Appellant's prepaid funeral contract with clarifications on the irrevocable and revocable contracts and verification of a [REDACTED] 2015 withdrawal from First County Bank. (Ex. 4: Verification We Need, [REDACTED]/15)
9. On [REDACTED] 2015, the Appellant's attorney submitted verification of the facility trust account ledger and bank statements from [REDACTED] 2015 through [REDACTED] 2015 from First County Bank. The bank balance at First County Bank on [REDACTED] 2015 was \$23,141.42. With the submission the attorney provided a letter stating that "We are still in the process of gathering additional materials and will forward them to you upon receipt". (Appellant's brief, Ex. 4-A: letter, ledger and bank statements.)
10. On [REDACTED] 2016, the Department denied the Appellant's LTC Medicaid application because her assets exceed the \$1,600.00 asset limit. (Ex. 9: Denial notice, [REDACTED]/16)
11. On [REDACTED] 2016, the Appellant's attorney submitted verification of the revocable and irrevocable funeral contracts, a copy of a check for \$24,180 issued by the Appellant and verification of the surrender of savings bonds. (Appellant's brief Ex. 7: Attorneys letter, [REDACTED]/15)
12. The items submitted were not accepted as the Appellant's application was denied [REDACTED], 2016, as there was no current pending application. (Hearing record)
13. The Appellant is seeking an effective date of [REDACTED] 2016 for LTC Medicaid. (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. Regulation provides that an assistance unit is not eligible for benefits under a particular program if the unit's equity in counted assets exceeds the asset limit for the particular program. Uniform Policy Manual ("UPM") § 4005.05 (D)

3. Regulation provides that the Medicaid asset limit for a needs group of one in the Medical Assistance for Aged, Blind or Disabled (“MAABD”) program is \$1,600.00. UPM § 4005.10
4. Regulation provides that in the Medicaid MAABD program at the time of application, the assistance unit is ineligible until the first day of the month in which it reduces its equity in counted assets to within the asset limit. UPM § 4005.15
5. 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.
6. 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)
7. The Department correctly sent the Appellant Application Verification Requirements lists on [REDACTED] 2015, [REDACTED] 2015 and [REDACTED], 2015, requesting information needed to establish eligibility.
8. 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)
9. 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)
10. 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)
11. 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.

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.

UPM § 1505.40(B)(5)

12. The Department did not issue a new verification request after receiving some of the items that were requested on the [REDACTED] 2015, Verification We Need form.
13. The Department incorrectly denied the Appellant's LTC Medicaid application.

DISCUSSION

The Appellant complied with each Department request for verifications in a timely manner. The Department did not issue a new Verification We Need form after receiving the last submission by the Appellant on [REDACTED] 2015. The letter from the attorney stated that he was still pursuing requested verifications. His most recent submission did indicate that the Appellant's assets were over the asset limit as of [REDACTED] 2015, but the Appellant's attorney must be allowed to complete the verification process as long as he complies with the Department's regulations. The Appellant acknowledges that her assets exceeded the limit for [REDACTED] and is seeking LTC Medicaid effective [REDACTED] 2016.

DECISION

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

ORDER

1. The Department will reopen the Appellant's LTC application as of [REDACTED] 2016, 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 15 days from the date of the decision.

Thomas Monahan

Thomas Monahan
Hearing Officer

C: Poonam Sharma, Operations Manager, Bridgeport Regional Office
Fred Presnick, Operations Manager, Bridgeport Regional Office
Yecenia Acosta, Program Manager, Bridgeport Regional Office
Cheryl Stuart, Program Manager, Bridgeport Regional Office
Natosha Douglas, Hearing Liaison

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.