

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

[REDACTED] 2016
Signature confirmation

Client: [REDACTED]
Request: 770823

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On [REDACTED] 2016, the Department of Social Services (the "Department") issued [REDACTED] [REDACTED] (the "Appellant") a notice stating that the Department had denied her [REDACTED] 2015 Medicaid application.

On [REDACTED] 2016, [REDACTED] (the "conservator"), the Appellant's conservator, filed a request on the Appellant's behalf for an administrative hearing with the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") to dispute the Department's action.

On [REDACTED] 2016, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") scheduled the administrative hearing for [REDACTED] 2016. The Appellant's conservator did not appear, and the administrative hearing did not go forward. On [REDACTED] 2016, the Appellant's conservator contacted the OLCRAH to request a new administrative hearing date; the OLCRAH granted the Appellant's conservator request.

On [REDACTED] 2016, the OLCRAH held an administrative hearing in accordance with sections 17b-60, 17b-61, and 4-176e to 4-189, inclusive, of the Connecticut General Statutes. The following individuals attended the administrative hearing by video- and telephone-conferencing:

[REDACTED], Appellant's conservator
[REDACTED], Appellant's conservator's witness
Nedra Pierce, Department's primary representative (by telephone)
Ken Smiley, Department's representative
Eva Tar, Hearing Officer

On [REDACTED] 2016, the hearing record closed.

STATEMENT OF ISSUE

The issue to be determined is whether the Department correctly denied the Appellant's [REDACTED] 2015 Medicaid application.

FINDINGS OF FACT

1. On [REDACTED] 2015, the [REDACTED] Probate Court appointed [REDACTED] (the "conservator") to be the Appellant's conservator of person and estate. (Appellant's Exhibit A: Fax, [REDACTED] 16)(Appellant's Exhibit B: Fax, [REDACTED] 16)
2. Prior to [REDACTED] 2015, the Appellant's conservator held the Appellant's power of attorney. (Appellant's conservator's testimony)
3. In the relevant period from [REDACTED] 2015 through [REDACTED] 2016, the Appellant's conservator resided at [REDACTED] (the "address"). (Appellant's Exhibit A)(Department's Exhibit 1)
4. The Appellant is a resident of [REDACTED], a skilled nursing facility in Connecticut. (Appellant's conservator's testimony)
5. On [REDACTED] 2015, the Department received the Appellant's Medicaid application for coverage of long-term care services, signed by the Appellant's conservator. (Department's Exhibit 1: *W-1LTC: Long-term Care/Waiver Application*, stamped as received [REDACTED] 15)
6. Section N-Transfer of Assets of the Appellant's [REDACTED] 2015 Medicaid application asks the applicant to identify assets that have been sold, traded, gifted or transferred in the past five years; this section was left blank by the Appellant's conservator. (Department's Exhibit 1)
7. On [REDACTED] [REDACTED] 2015, the Department assigned the Department's primary representative the Appellant's [REDACTED] 2015 Medicaid application as a work item. (Department's Exhibit 8)
8. The Department's primary representative issued *W-1348LTC: Verification We Need* forms by mail to the Appellant, care of the Appellant's conservator, requesting proof of certain information on the following dates: [REDACTED] 2016; [REDACTED] 2016; [REDACTED] 2016; [REDACTED] 2016; and [REDACTED] 2016. (Department's Exhibit 2: *W-1348LTC: Verification We Need*, issued [REDACTED] 16)(Department's Exhibit 3: *W-1348LTC: Verification We Need*, issued [REDACTED] 16)(Department's Exhibit 4: *W-1348LTC: Verification We Need*, issued [REDACTED] 16)(Department's Exhibit 5: *W-1348LTC: Verification We Need*, issued [REDACTED] 16)(Department's Exhibit 6: *W-1348LTC: Verification We Need*, issued [REDACTED] 16)

9. The Department sent the [REDACTED] 2016, [REDACTED] 2016, [REDACTED] 2016, [REDACTED] 2016, and [REDACTED] 2016 *W-1348LTC: Verification We Need* forms to the Appellant's conservator's address. (Department's Exhibits 2 through 6)(Department's primary representative's testimony)
10. The Department's [REDACTED] 2016, [REDACTED] 2016, [REDACTED] 2016, [REDACTED] 2016, and [REDACTED] 2016 *W-1348LTC: Verification We Need* forms gave the Appellant's conservator a deadline of 10 days from the date of issuance to return the requested proof to the agency. (Department's Exhibits 2 through 6)
11. The Appellant's conservator provided documents to the Department in response to the Department's [REDACTED] 2016, [REDACTED] 2016, [REDACTED] 2016, and [REDACTED] 2016 *W-1348LTC: Verification We Need* forms. (Department's Exhibit 8)
12. The [REDACTED] 2016 *W-1348LTC: Verification We Need* form requests that the Appellant's conservator provide nine items to the Department by [REDACTED] 2016. (Department's Exhibit 5)
13. The items referenced in the [REDACTED] 2016 *W-1348LTC: Verification We Need* form include \$14,000.00 in transfers of the Appellant's assets that had identified by the Department as having been made by the Appellant's conservator in [REDACTED] 2015. One item requested verification of whether administrative fees had been approved by probate court. (Department's Exhibit 5)
14. The [REDACTED] 2016 *W-1348LTC: Verification We Need* form provides the Department's primary representative's telephone number and state email address as contact information should the Appellant's conservator need help getting the proof or need more time getting the proof. (Department's Exhibit 5)
15. The [REDACTED] 2016 *W-1348LTC: Verification We Need* form states that if the proof is not provided to the Department by [REDACTED] 2016 or if the Appellant's conservator does not ask for more time by [REDACTED] 2016, the Appellant's Medicaid application would be denied. (Department's Exhibit 5)
16. The [REDACTED] 2016 *W-1348LTC: Verification We Need* form requested the submission of seven of the nine items listed on the Department's [REDACTED] 2016 *W-1348LTC: Verification We Need* form be provided to the Department. (Department's Exhibit 6)
17. The [REDACTED], 2016 *W-1348LTC: Verification We Need* form states that if the proof is not provided to the Department by [REDACTED] 2016 or if the Appellant's conservator does not ask for more time by [REDACTED] 2016, the Appellant's Medicaid application would be denied. (Department's Exhibit 5)
18. The Department's primary representative left messages for the Appellant's conservator at his telephone number. (Department's primary representative's testimony)

19. The Appellant's conservator did not return the Department's primary representative's telephone calls. (Department's primary representative's testimony)(Appellant's conservator's testimony)
20. The Appellant's conservator has not been returning telephone calls from numbers he does not recognize, to avoid bill collectors. (Appellant's conservator's testimony)
21. The Appellant's conservator was not hospitalized or temporarily away from his address in █████ 2016. (Appellant's conservator's testimony)
22. The Appellant's conservator had successfully contacted the Department's primary representative in the past by email. (Department's Exhibit 8)
23. The Department had not received mail returned by the U.S. Postal Service as having been undelivered, with respect to the Appellant's conservator's address. (Department's primary representative's testimony)
24. The Department was unable to determine the Appellant's eligibility for Medicaid long-term care coverage in the absence of the requested proof, due to potential penalty periods of ineligibility regarding the transfers of the Appellant's assets. (Department's primary representative's testimony)
25. On or around █████ 2016, First Niagara of █████ requested documents from the Appellant's conservator. (Appellant's Exhibit A)
26. On █████ 2016, the Department issued a notice to the Appellant, care of the Appellant's conservator, to the Appellant's conservator's address; the notice stated that the agency had denied the Appellant's █████ 2015 Medicaid application as the Appellant had failed to return all the requested verification. (Department's Exhibit 7: Notice Content-NCON, █████ 16)
27. On █████ 2016, the Appellant's conservator completed a notarized Affidavit and Agreement as to Power of Attorney Being in Full Force and Effect (Connecticut) with First Niagara Bank, with respect to the Appellant's bank accounts. (Appellant's Exhibit A)
28. On █████ 2016, the OLCRAH received a faxed, written request for an administrative hearing on the Appellant's behalf; the Appellant's conservator signed the request on █████ 2016. (Hearing record)
29. In the period from █████ 2016 through █████ 2016, the Appellant's conservator had not contacted the Department's primary representative by telephone, mail, or email to provide the requested documentation or to ask for more time to provide the requested documentation. (Department's primary representative's testimony)
30. The Appellant's conservator had within his means the ability to verify several of the items requested on the Department's █████ 2016 and █████ 2016 *W-1348LTC: Verification We Need* forms, as the items referenced his personal transfer of the

Appellant's assets in [REDACTED] 2015 and the circumstances as to whether his administrative fees had been approved by the [REDACTED] Probate Court.

31. The [REDACTED] Center is looking for Medicaid coverage of the Appellant's long-term care services to begin effective [REDACTED] 2015. (Department's Exhibit 8: Narrative-NARR, varying dates)

CONCLUSIONS OF LAW

1. The Department is the designated state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act. Conn. Gen. Stat. § 17b-2.
2. As a condition of eligibility, members of the assistance unit are required to cooperate in the initial application process and in reviews, including those generated by reported changes, redeterminations and Quality Control. (Cross reference: Eligibility Process 1500). Applicants are responsible for cooperating with the Department in completing the application process by: a. fully completing and signing the application form; and b. responding to a scheduled appointment for an interview; and c. providing and verifying information as required. UPM § 3525.05 (A)(1).
3. The Department must inform the assistance unit regarding the eligibility requirements of the programs administered by the agency and regarding the unit's rights and responsibilities. UPM § 1015.10 (A).
4. The Department must tell the assistance unit what the unit has to do to establish eligibility when the agency does not have sufficient information to make an eligibility determination. UPM § 1015.05 (C).
5. The Department correctly informed the Appellant's conservator of what he had to do in order to establish eligibility when the agency issued multiple written requests for verification of the same items of proof.
6. 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. 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. UPM § 1010.05 (A).
7. The following provisions apply if the applicant failed to complete the application without good cause: (1) if eligibility has been established to the extent that assistance can be granted to all or a part of the assistance unit, the case is processed between the day after the expiration of the applicant's deadline for completing the required action; and (2) the last day of the agency promptness standard for processing the application. UPM § 1505.40 (B)(1)(a).
8. The Department determines eligibility within the standard of promptness for Medicaid program 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; or c. the Department has assumed responsibility for obtaining verification and has had less than 10 days; or d. the Department has assumed responsibility for obtaining verification and is waiting for material from a third party. UPM § 1505.35 (D)(2).

9. Delays Due to Good Cause (AFDC, AABD, MA Only). 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).
10. Delays Due to Good Cause (AFDC, AABD, MA Only). 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).
11. The Appellant's conservator's voluntary avoidance of all contact with the Department's primary representative, the individual assigned to evaluate the Appellant's [REDACTED] 2015 Medicaid application, in the period from [REDACTED] 2016 through [REDACTED] 2016 was not an unusual circumstance beyond his control.
12. The Appellant's conservator did not demonstrate that he had good cause to fail to provide a single item requested on the [REDACTED] 2016 *W-1348LTC: Verification We Need* form to the Department by [REDACTED] 2016, as he had been notified multiple times by the Department in earlier written requests of the necessity of providing these specific items.
13. The Department correctly denied the Appellant's [REDACTED] [REDACTED], 2015 Medicaid application.

DECISION

The Appellant's appeal is DENIED.

Eva Tar-electronic signature
Eva Tar
Hearing Officer

cc: [REDACTED], [REDACTED]
Nedra Pierce, DSS-New Haven (20)
Ellen Croll-Wissner, DSS-New Haven (20)
Ken Smiley, DSS-Willimantic (42)
Tonya Cooke-Beckford, DSS-Willimantic (42)

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 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, 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 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.