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

2016
Signature Confirmation

Client ID #
Request # 784002

NOTICE OF DECISION

PARTY

For:

PROCEDURAL BACKGROUND

On 2016, the Department of Social Services (the "Department") sent of Windsor Health and Rehabilitation Business Office on behalf of (the "Appellant") a Notice of Action ("NOA") denying the Appellant's application for Medicaid under the Long Term Care Program ("LTC").

On 2016, ("POA"), Power of Attorney, requested an administrative hearing on behalf of the Appellant to contest the decision to deny such benefits.

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

On 2016, the POA requested a continuance that OLCRAH granted.

On 2016, the OLCRAH issued a notice scheduling 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:

█████, Power of Attorney for the Appellant
█████, Windsor Health and Rehabilitation, Witness for the Appellant
█████, Windsor Health and Rehabilitation, Witness for the Appellant
Rachel Figueroa, Department's Representative
Lisa Nyren, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Appellant's application for Medicaid under the Long Term Care ("LTC") Program was correct.

FINDINGS OF FACT

1. On █████ 2015, Windsor Health and Rehabilitation ("nursing facility") a skilled nursing facility admitted the Appellant to their facility. (Exhibit 1: Case Narrative and Exhibit 2: W-1 LTC Application)

2. On █████ 2016, the Appellant named the nursing facility as her authorized representative to assist with the Medicaid application process. (Exhibit 2: W-1 LTC Application)

3. On █████ 2016, the nursing facility applied for Medicaid under the LTC program on behalf of the Appellant. (Exhibit 1: Case Narrative, Exhibit 2: W-1 LTC Application, and Exhibit 6: Notice of Action)

4. On █████ 2016, the Department issued a W1348LTC Verification We Need ("W1348") form to the nursing facility requesting verifications necessary to determine the Appellant's eligibility under Medicaid. The requested information was due █████ 2016. (Exhibit 1: Case Narrative)

5. On █████ 2016, █████ ("POA"), the Appellant's sister, received power of attorney on behalf of the Appellant after Probate Court revoked the Appellant's daughter's power of attorney status due to mismanagement of the Appellant's funds. (POA's Testimony)

6. On █████ 2016, the Department received a request from the nursing facility for additional time to submit the requested information. (Exhibit 1: Case Narrative)

7. On █████ 2016, the Department received some of the requested information. (Exhibit 1: Case Narrative)

8. On [redacted] 2016, the Department issued a W1348 form to the nursing facility requesting verifications necessary to determine the Appellant's eligibility under Medicaid. The requested information was due [redacted] 2016. (Exhibit 1: Case Narrative)

9. On [redacted] 2016, the Department received some of the requested information. (Exhibit 1: Case Narrative)

10. On [redacted] 2016, the Department issued a W1348 form to the nursing facility requesting verifications necessary to determine the Appellant's eligibility under Medicaid. The requested information was due [redacted] 2016. (Exhibit 1: Case Narrative)

11. On [redacted] 2016, the Department received some of the requested information. (Exhibit 1: Case Narrative)

12. On [redacted] 2016, the Department issued a W1348 form to the nursing facility requesting verifications necessary to determine the Appellant's eligibility under Medicaid. The requested information was due [redacted] 2016. (Exhibit 1: Case Narrative)

13. On [redacted] 2016, the Department received a request from the nursing facility for additional time to submit the requested information. (Exhibit 1: Case Narrative)

14. On [redacted] 2016, the Department issued a W1348 form to the nursing facility requesting verifications necessary to determine the Appellant's eligibility under Medicaid. The requested information was due [redacted] 2016. (Exhibit 1: Case Narrative)

15. On [redacted] 2016, the Department received some of the requested information. (Exhibit 1: Case Narrative)

16. On [redacted] 2016, the Department issued a W1348 form to the nursing facility requesting verifications necessary to determine the Appellant's eligibility under Medicaid. The requested information was due [redacted] 2016. (Exhibit 1: Case Narrative)

17. On [redacted] 2016, the Department received a request from the nursing facility for additional time to submit the requested information. (Exhibit 1: Case Narrative)

18. On [redacted] 2016, the Department issued a W1348 form to the nursing facility requesting verifications necessary to determine the Appellant's

eligibility under Medicaid. The requested information was due ████ 2016. (Exhibit 1: Case Narrative)

19. On ████ 2016, the Department received a request from the nursing facility for additional time to submit the requested information. (Exhibit 1: Case Narrative)

20. The Department granted the extension of time through ████ 2016. (Exhibit 1: Case Narrative)

21. On ████ 2016, the Department received a request from the nursing facility for additional time to submit the requested information. (Exhibit 1: Case Narrative)

22. The Department granted the extension of time to submit the requested verification through ████ 2016. (Exhibit 1: Case Narrative)

23. On ████ 2016, the Department received some of the requested information. (Exhibit 1: Case Narrative)

24. On ████ 2016, the Department issued a W1348 form to the nursing facility requesting verifications necessary to determine the Appellant's eligibility under Medicaid. The requested information was due ████ 2016. (Exhibit 1: Case Narrative)

25. On ████ 2016, the Department granted an extension of time to submit the requested verification through ████ 2016. (Exhibit 1: Case Narrative)

26. On ████ 2016, the Department received some of the requested information. (Exhibit 1: Case Narrative)

27. On ████ 2016, the Department mailed a W1348 form to the nursing facility. The Department requested the following verifications: Proof assets below $1,600.00 and explanation of disability benefits. The requested information was due by ████ 2016. (Exhibit 3: W1348 *Verification We Need* ██15)

28. The nursing facility notified the POA of the outstanding verifications via email. (Nursing Facility's Testimony and POA's Testimony)

29. The POA received the email late because she left on vacation ████ 2016 and did not return until ████ 2016. (POA's Testimony)

30. The Department did not receive the requested information by the ██████ ██ 2016 due date. (Department Representative's Testimony, Exhibit 6: Notice of Action, POA's Testimony, and Nursing Facility's Testimony)

31. On ████████ 2016, the Department denied the Appellant's application for Medicaid under the LTC program because the Department did not receive the required information necessary to determine Medicaid eligibility. (Exhibit 6: NOA ███/16 and Hearing Summary)

32. On ████████ 2016, the Department issued a notice of action to the nursing facility on behalf of the Appellant. The notice stated the Department denied the Appellant's application for Medicaid under the LTC program effective ███████ 2016 because you did not return all of the required verification we asked for. (Exhibit 6: NOA ███16)

CONCLUSIONS OF LAW

1. Section 17b-2(6) of the Connecticut General Statutes provides that the Department of Social Services is designated as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.

2. Uniform Policy Manual ("UPM") § 1010 provides that the assistance unit, by the act of applying for or receiving benefits, assumes certain responsibilities in its relationship with the Department. This chapter describes those responsibilities which an assistance unit assumes when it applies for or receives benefits from the Department.

3. UPM § 2000.01 provides that the assistance unit consists of one or more individuals who apply for or receive assistance together under one of the Department's programs.

   UPM § 2015.05(A) provides that the assistance unit in AABD and MAABD consists of only one member. In these programs, each individual is a separate assistance unit.

4. The Department correctly determined the Appellant as an assistance unit of one.

5. UPM § 1505 provides that the application process outlines the general methods and requirements used in obtaining assistance and in determining an assistance units initial eligibility. The application process is essentially the same for all programs. It is designed to provide aid in a prompt and efficient manner to those who request assistance.

6. UPM § 1505.15(A)(1) provides that applicants may apply for and be granted assistance on their own behalf or, under certain conditions, be represented by other qualified individuals who act responsibly for them.

   UPM § 1505.15(C)(1)(a) provides that the following individuals are qualified to request cash or medical assistance, be interviewed and, complete the application process on the behalf of others who they represent:

   1. The caretaker relative of a child applicant;
   2. The spouse, provided that the spouse is not estranged;
   3. A conservator, guardian or other court appointed fiduciary.

   UPM § 1505.15(C)(1)(b) provides that if none of the above individuals are available, the following persons may file the application on the assistance unit's behalf:

   1. Another responsible assistance unit member; or
   2. An authorized representative (Cross Reference: 1525)

7. UPM § 1525 provides that under certain conditions an assistance unit may designate an authorized representative to act on the unit's behalf in dealings with the Department. In the Public Assistance programs, authorized representatives serve limited functions during the application process. However, in the FS program their role is extended into many aspects of the eligibility process.

   UPM § 1525.05(C)(2) provides that an authorized representative must be designated in writing by one of the following individuals: in the AABD and MA programs, but the applicant, or if the applicant is a child, incompetent or incapacitated, by the parent, custodian, or court appointed fiduciary.

   UPM § 1525.15(A)(1)(a) provides that in the AFDC, AABD, and MA programs, the authorized representative's primary role is to allow the applicant to file an application without delay in an emergency when no other person is able to do so.

   UPM § 1525.15(A)(1)(b) provides that the authorized representative may:
   a. File the application; and
   b. Represent the assistance unit at an interview if one is conducted at the time the assistance request if filed.

   UPM § 1525.15(C)(1)(a) provides that residents of institutions may apply for assistance and be certified on their own behalf, or through the use of an authorized representative who may be an individual of the applicant's choice or an employee designated by the institution for this purpose. In

the Food Stamp program, for residents of drug and alcohol treatment centers, the authorized representative must be an employee designated by the institution.

UPM § 1525.15(C)(1)(b) provides that in order for the institution to represent an applicant, the individual must be a current resident of the institution.

8. The Department correctly determined the Appellant designated the nursing facility as her authorized representative.

9. The nursing facility correctly filed an application for LTC Medicaid on behalf of the Appellant.

10. UPM § 1525.05(A) provides that an assistance unit may be represented in various aspects of the eligibility process by a responsible individual who has been given prior authorization to act as the assistance unit's representative.

11. 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.

    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.

12. On July 22, 2016, the Department correctly sent the nursing facility a W1348 form requesting information needed to establish Medicaid eligibility for the Appellant.

13. 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. (cross reference: 1555)

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

14. UPM § 1525.05(G) provides that the appointment of an authorized representative does not relieve the assistance unit of any responsibilities. Both the assistance unit and the representative may be held responsible for assistance improperly obtained through action by the authorized representative.

15. 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.

16. Due to the POA's vacation, the nursing facility was not able to obtain the outstanding verifications requested by the Department timely. The nursing facility established good cause on behalf of the Appellant.

17. UPM § 1505.40(B)(4)(b) provides that 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.

18. The Department incorrectly denied the Appellant's application for Medicaid under the LTC program for failure to submit information needed to establish eligibility.

DISCUSSION

The Department issued nine W1348 Request for Verification forms to the nursing facility requesting information necessary to determine the Appellant's eligibility under the LTC Medicaid program. The nursing facility would then forward the Department's request to the POA via email. The nursing facility and POA cooperated throughout the application process by submitting documents timely or requesting an extension to the document due date. The POA testified she believed all documents had been submitted to the Department on behalf of the Appellant before leaving for vacation on ████ 2016. On ████ 2016, the Department issued the ninth W1348 to the nursing facility with a due date of ████ 2016. It is unclear why the nursing facility did not request an extension to the due date when the POA did not respond to their email, however without the POA's response, the nursing facility did not have the authority to obtain the requested information on behalf of the Appellant. Good cause has been established for missing the deadline.

DECISION

The Appellant's appeal is granted.

ORDER

1. The Department must reopen the Appellant's application for LTC Medicaid effective [redacted] 2016 and continue to process eligibility.

2. The Department must issue a W1348LTC Verification We Need form to the nursing facility and POA for any outstanding verification needed to determine eligibility and allow at least 10 days for the submission of the information.

3. Compliance is due [redacted] 2016.

Lisa A. Nyren
Lisa A. Nyren
Hearing Officer

PC: Musa Mohamud, Social Services Office Manager
Judy Williams, Social Services Office Manager
Tricia Morelli, Social Services Program Manager
Rachel Figueroa, Eligibility Services Worker
Lara Alatise, Windsor Health and Rehabilitation

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.