

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

██████████, 2017  
Signature Confirmation

Client ID # ██████████  
Request # 825420

NOTICE OF DECISION

PARTY

██████████  
██████████  
██████████  
██████████

PROCEDURAL BACKGROUND

On ██████████ 2017, the Department of Social Services (the "Department") sent ██████████ ██████████ (the "Appellant") a Notice of Action ("NOA") granting Long Term Care Medicaid benefits effective ██████████ 2016.

On ██████████ 2017, ██████████, Counsel for the Appellant and for the Appellant's son and power of attorney, ██████████ ("POA") requested an administrative hearing to contest the effective date of the Medicaid benefits as determined by the Department.

On ██████████ 2017, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████ 2017.

On ██████████ 2017, OLCRAH issued a notice rescheduling the administrative hearing to ██████████ 2017. Counsel for the Appellant requested a continuance.

On ██████████ 2017 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:

██████████, , the son and Power or Attorney for ██████████  
██████████, Counsel for the Appellant and his son, the POA  
Shayla Streater, Eligibility Staff, DSS Regional Office #20, New Haven  
Darien Haney, Fair Hearing Liaison, DSS Regional Office #40, Norwich,  
Maureen Foley-Roy, Hearing Officer

## **STATEMENT OF THE ISSUE**

The issue to be decided is whether the Department's decision to grant Medicaid benefits effective [REDACTED] 2016 was correct.

## **FINDINGS OF FACT**

1. On [REDACTED] [REDACTED] 2016, the Appellant met the Department's criteria as institutionalized. (Exhibit 6: Spousal Assessment Worksheet)
2. On [REDACTED] 2016, the Department received an application for Title 19-Long Term care for Medicaid. (Exhibit 1: Application)
3. On [REDACTED] 2016, the Department sent a W1348-Verification We Need Form (request #1) with a due date of [REDACTED] 2016 listing outstanding items of documentation needed to determine eligibility. The form stated that if none of the required proof was received and the Appellant did not call to request more time to obtain the information, then the application may be denied. (Exhibit 3a: W1348 Verification We Need form dated [REDACTED] 2016)
4. On [REDACTED] 2016, the Department received a response to the Request # 1 and some of the items that were requested. (Exhibit 4a: Letter from Counsel dated [REDACTED], 2016)
5. On [REDACTED] 2016, the Department sent a W1348-Verification We Need form (request #2) with a due date of [REDACTED] 2016 listing outstanding items of documentation needed to determine eligibility. The form stated that if none of the required proof was received and the Appellant did not call to request more time to obtain the information, then the application may be denied. (Exhibit 3b: W1348 Verification We Need form dated [REDACTED] 2016)
6. On [REDACTED] 2016, the Department received two letters from the Appellant's attorney containing some of the requested items. (Exhibits 4b and 4c: Transmittal Memos from Attorney [REDACTED] office dated [REDACTED] 2016)
7. On [REDACTED] 2016, the Appellant's Counsel submitted another item of information that had been requested by the Department. (Exhibit 4d: Transmittal Memo from Attorney [REDACTED] dated [REDACTED] 2016.)
8. On [REDACTED] 2016, the Department sent a W1348-Verification We Need form (request #3) with a due date of [REDACTED] 2016 listing outstanding items of documentation needed to determine eligibility. The form stated that if none of the required proof was received and the Appellant did not call to request more time to obtain the information, then the application may be denied. (Exhibit 3c: W1348 Verification We Need form dated [REDACTED] 2016)

9. On [REDACTED] 2016, the Department received two letters from the Appellant's attorney containing some of the requested items. (Exhibits 4e and 4f: Transmittal Memos from Attorney [REDACTED] office dated [REDACTED], 2017)
10. On [REDACTED] 2016, Department received two letters from the Appellant's attorney containing some of the requested items. (Exhibits 4g and 4h: Transmittal Memos from Attorney [REDACTED] office dated [REDACTED] 2016)
11. On [REDACTED] 2016, the Department sent a W1348-Verification We Need form (request #4) with a due date of [REDACTED] 2016 listing outstanding items of documentation needed to determine eligibility. The form stated that if none of the required proof was received and the Appellant did not call to request more time to obtain the information, then the application may be denied. (Exhibit 3d: W1348 Verification We Need form dated [REDACTED] 2016)
12. On [REDACTED] 2016, the Appellant's Counsel submitted another item of information that had been requested by the Department. (Exhibit 4i: Letter from Attorney [REDACTED] office dated [REDACTED] 2016.)
13. On [REDACTED] 2016, the Appellant's Counsel submitted another item of information that had been requested by the Department. (Exhibit 4j: Transmittal Memo from Attorney [REDACTED]'s office dated [REDACTED] 2016.)
14. On [REDACTED] 2016, Appellant's Counsel responded to request # 4 and provided some of the information that had been requested. (Exhibit 4k: Transmittal Memo from Attorney [REDACTED] office dated [REDACTED] 2016)
15. On [REDACTED], 2016, the Appellant's Counsel submitted another item of information that had been requested by the Department. (Exhibit 4l: Transmittal Memo from Attorney [REDACTED] office dated [REDACTED] 2016)
16. On [REDACTED], 2016, the Appellant's Counsel submitted additional items that had been requested by the Department. (Exhibit 4m: Transmittal Memo from Attorney [REDACTED] office dated [REDACTED] 2016.)
17. On [REDACTED] [REDACTED] 2017, the Appellant's Counsel submitted another item of information that had been requested by the Department. (Exhibit 4n: Transmittal Memo from Attorney [REDACTED] office dated [REDACTED] 2017)
18. On [REDACTED] 2017, the Department sent a W1348-Verification We Need form (request #5) with a due date of [REDACTED] 2017 listing outstanding items of documentation needed to determine eligibility. The form stated that if none of the required proof was received and the Appellant did not call to request more time to obtain the information, then the application may be denied. (Exhibit 3e: W1348 Verification We Need form dated [REDACTED] 2017)

19. There is no evidence that the Department received any response to request # 5. (Hearing Record)
20. On [REDACTED] 2017, the Department sent a W1348-Verification We Need form (request #6) with a due date of [REDACTED] 2017 listing outstanding items of documentation needed to determine eligibility. The form stated that if none of the required proof was received and the Appellant did not call to request more time to obtain the information, then the application may be denied. (Exhibit 3f: W1348 Verification We Need form dated [REDACTED] 2017)
21. On [REDACTED] 2017, the Appellant's Counsel submitted an item of information that had been requested by the Department. (Exhibit 4O: Transmittal Memo from Attorney [REDACTED] office dated [REDACTED], 2017.)
22. On [REDACTED] 2017, the Appellant's Counsel submitted five items that had been requested by the Department. (Exhibit 4p: Transmittal Memo from Attorney [REDACTED] office dated [REDACTED] 2017.)
23. On [REDACTED] 2017, the Appellant's Counsel submitted an additional package that contained 40 pages of accounts that had been requested by the Department. (Exhibit 4q: Transmittal Memo from Attorney [REDACTED] office dated [REDACTED], 2017.)
24. On [REDACTED] 2017, the Appellant's Counsel submitted four items that had been requested by the Department. (Exhibit 4r: Transmittal Memo from Attorney [REDACTED] office dated [REDACTED], 2017.)
25. On [REDACTED] 2017 the Appellant's Counsel submitted a copy of a letter and a check to the facility where the Appellant resides. (Exhibit 4s: Transmittal Memo from Attorney [REDACTED] office dated [REDACTED] 2017.)
26. On [REDACTED] 2017, the Appellant's Counsel submitted copies of checks number [REDACTED] and [REDACTED] and a list of services provided. (Exhibit 4t: Transmittal Memo from Attorney [REDACTED] office dated [REDACTED] 2017.)
27. On [REDACTED] 2017, the Department sent a W1348-Verification We Need form (request #7) with a due date of [REDACTED] 2017 listing outstanding items of documentation needed to determine eligibility. The form stated that if none of the required proof was received and the Appellant did not call to request more time to obtain the information, then the application may be denied. (Exhibit 3g: W1348 Verification We Need form dated [REDACTED] 2017)
28. On [REDACTED], 2017, Appellant's Counsel responded to request # 7 with a copy of a personal services agreement and additional items. (Exhibit 4u: Transmittal Memo from Attorney [REDACTED] office dated [REDACTED] 2017)

29. On [REDACTED], 2017, the Department sent a W1348-Verification We Need form (request #8) with a due date of [REDACTED] 2017 listing outstanding items of documentation needed to determine eligibility. The form stated that if none of the required proof was received and the Appellant did not call to request more time to obtain the information, then the application may be denied. (Exhibit 3h: W1348 Verification We Need form dated [REDACTED] 2017)
30. On [REDACTED] 2017, the Appellant's Counsel provided the Department with a copy of a check to the facility. (Exhibit 4v: Transmittal Memo from Attorney [REDACTED] office dated [REDACTED] 2017)
31. On [REDACTED] 2017, Appellant's Counsel responded to request # 8 by providing five items that the Department had requested. (Exhibit 4w: Transmittal Memo from Attorney [REDACTED] office dated [REDACTED] 2017)
32. On [REDACTED], 2017, the Department sent a W1348-Verification We Need form (request #9) with a due date of [REDACTED], 2017 listing outstanding items of documentation needed to determine eligibility. The form stated that if none of the required proof was received and the Appellant did not call to request more time to obtain the information, then the application may be denied. (Exhibit 3i: W1348 Verification We Need form dated [REDACTED] 2017)
33. The Department did not receive a request for an extension to the deadline established in request #9. (Department representative's testimony)
34. On [REDACTED] 2017, the Department denied the application for failing to provide the information necessary to determine eligibility. (Exhibit 2: Case Narrative and Exhibit 7: Denial Notice dated [REDACTED] 2017)
35. On [REDACTED], 2017, the Department received the Appellant's Counsel's response to request # 9 which was dated [REDACTED], 2017. Counsel provided 7 of the items requested and requested an extension to provide the additional outstanding items. (Exhibit 4x: Transmittal Memo from Attorney [REDACTED] office dated [REDACTED] 2017)
36. On [REDACTED] 2017, Appellant's Counsel sent two letters to the Department responding to request # 9. (Exhibit 4y and 4z: Transmittal Memos from Attorney [REDACTED] office dated [REDACTED] 2017)
37. On [REDACTED] 2017, the Department reopened the Appellant's application for long term care medical assistance effective [REDACTED], 2017. The Department issued a W1348 Verification We Need form request #1 with a due date of [REDACTED] 2017 listing outstanding items of documentation needed to determine eligibility. The form stated that if none of the required proof was received and the Appellant did not call to request more time to obtain the information, then the application may be denied. The form also noted that the Appellant had applied for assistance on [REDACTED] 2017. (Exhibit 3j: W1348 dated [REDACTED] 2017)

38. The Department reopened the application effective [REDACTED] 2017 because that was the date of the first submission of requested information after the [REDACTED] 2017 denial and the denial had occurred within 30 days. (Department representative's testimony)
39. On [REDACTED] 2017, the Department granted Medicaid for Long term care effective [REDACTED] of 2016. (Exhibit 8: Notice of Approval for Long Term Care Medicaid)
40. The Appellant owes \$36,673.00 to the facility where he is residing for the months of [REDACTED] and [REDACTED] of 2016. The Department is diverting the Appellant's applied income to pay the outstanding bill. (Exhibit 9: invoice and hearing summary)

### **CONCLUSIONS OF LAW**

1. Section 17b-2 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. Uniform Policy Manual ("UPM") Section 1560.10 A, B and C provides that the beginning date of assistance for Medicaid may be either: the first day of the first , second or third month immediately preceding the month in which the Department receives a signed application when all non-procedural eligibility requirements are met and covered medical services are received at any time during that particular month; or the first day of the month of application when all non- procedural eligibility requirements are met during that month; or the actual date in a spenddown period when all non-procedural eligibility requirements are met.
3. UPM § 1505.35 C1(c)(2) provides that a standard of promptness is established as the maximum time period for processing applications. For applicants for Medical Assistance on the basis of age; that standard is forty-five calendar days.
4. UPM § 1505.40 B 5 a (1) and (2) provide that regardless of the standard of promptness, no eligibility determination is made when there is insufficient verification to determine eligibility when the Department has requested verification and 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.
5. UPM § 1505.40 B 5 b provides that an additional 10 day extension 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.

6. The Department was correct when it denied the Appellant's original application on [REDACTED] 2017 because the Appellant did not provide even one of the items requested on the W1348-Verification We Need form Request # 9 sent on [REDACTED] 2017.
7. UPM § 1505.45 B provides for reopening of applications in the medical assistance program and states that the Department reopens the denied application of AABD or MA applicant who: was denied assistance for failing to meet the disability criteria; and successfully appeals the SSI decision. The case is reopened retroactive to the original date of application when the Department is notified that SSI has been awarded due to a successful appeal.
8. The Department was incorrect when it reopened the Appellant's denied application effective [REDACTED], 2017 because the Appellant's did not successfully appeal a denial for failing to meet the disability criteria and because it had not received a signed application on that date.
9. UPM § 1015.05 C states 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.
10. The Department was incorrect when it did not advise the Appellant that he needed to submit a new application upon submitting previously requested information after the application had been denied.
11. Because the Department did not advise the Appellant that a new application was required and erroneously reopened the application effective [REDACTED] 2017, it was correct when it granted Long Term Care Medicaid Benefits effective [REDACTED] of 2016, the third month preceding what should have been the application month of [REDACTED] 2017, had the Appellant been properly advised to submit a new application on [REDACTED] 2017.

### DISCUSSION

Each time the Department sent a request for information, it sent a form with a clearly established deadline. Every form stated that if the information was not received by the deadline, the Department may deny or delay benefits. Every form indicated that if an individual needed assistance or more time to obtain the information, an applicant could contact the Department.

During the pendency of this application, there were several times when information was submitted after the stated deadline but prior to the Department reviewing the application. At those times because the Department was in possession of some of the requested items, the Department did not deny the application but continued to process it by submitting an additional request for the remaining outstanding information. On [REDACTED] [REDACTED] 2017, the Department sent a 9<sup>th</sup> request for information with a deadline of [REDACTED] 2017. On [REDACTED] 2017, the Department reviewed the application and determined that

none of the requested items had been provided. There had been no contact from the Appellant requesting assistance or additional time to obtain the information. The Department was correct when it denied the application.

The Department incorrectly reopened the application effective [REDACTED] 2017, the date that it received at least one item of the information that had been requested. The correct procedure, as outlined in the Department's program information bulletin 15-05, requires a new application to be filed. However, the Department did not require a new application and did not notify the Appellant of such requirement.

### **DECISION**

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

*Maureen Foley-Roy*  
Maureen Foley-Roy,  
Hearing Officer

Pc: Attorney [REDACTED]  
Tyler Nardine, Tonya Cook-Beckford, Operations Manager  
DSS R.O. # 40, Norwich  
Shayla Streater, DSS New Haven



### **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 06105-3730.

### **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.