

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

██████████ 2018
Signature Confirmation

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

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████ 2018, the Department of Social Services (the "Department") sent ██████████, (the "Appellant") a Notice of Action ("NOA") denying the application for Medicaid Long Term Care Assistance program for failure to provide information.

On ██████████ 2018, the Appellant's spouse requested an administrative hearing to contest the Department's decision to deny the Appellant's application for Medicaid.

On ██████████ 2018, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████ 2018.

On ██████████ 2018, 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:

██████████, Appellant's spouse

██████████, Appellant's attorney

Lorraine Crowe, Department's observer

Michelle Massicot, Department's Representative, participated by telephone

Marci Ostroski, Hearing Officer

The Appellant was not present at the administrative hearing due to his institutionalization in a long term care facility.

The hearing record remained open for the submission of additional evidence. Exhibits were received from the Appellant and the Department. On [REDACTED] 2018, the hearing record closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Applicant's application for Medicaid due to failure to submit information needed to establish eligibility was correct.

FINDINGS OF FACT

1. On [REDACTED], 2017, the Appellant was admitted to [REDACTED] ('the facility'). (Ex. 8: Long Term Care/Waiver Application)
2. On [REDACTED], 2017, the Department received an application for Long Term Care Medicaid assistance for the Appellant which listed the Appellant's wife as the Applicant and the Appellant's attorney as Representative. (Department's Hearing Summary, Ex. 8: Long Term Care/Waiver Application)
3. On [REDACTED], 2017, the Department sent the Appellant's attorney a W-1348M, Worker Generated Request for Proofs requesting information needed to determine eligibility. The due date for the requested information was [REDACTED], 2017. (Department's Hearing Summary, Ex. 1: W-1348LTC, [REDACTED]/17)
4. On [REDACTED] 2017, the Appellant's attorney sent a response via mail to the Department's request for information. (Appellant's Hearing Summary)
5. On [REDACTED], 2017 the Department sent the Appellant's attorney a W-1348M, Worker Generated Request for Proofs, requesting additional information needed to determine eligibility. The due date for the requested information was [REDACTED] 2017. (Department's Hearing Summary, Ex. 2: W-1348LTC, [REDACTED]/17)
6. On [REDACTED], 2017, and again on [REDACTED], 2017, the Appellant's attorney sent a response via mail to the Department's request for information. (Appellant's Hearing Summary)

7. On [REDACTED], 2017 the Department sent the Appellant's attorney a W-1348M, Worker Generated Request for Proofs, and an Explanation of Deposits/Withdrawals worksheet requesting additional information needed to determine eligibility. The due date for the requested information was [REDACTED] 2018. (Department's Hearing Summary, Ex. 3: W-1348LTC, [REDACTED]/18)
8. The Appellant's attorney requested an extension of time to provide the requested information. The Department granted the extension with a new due date of [REDACTED] 2018. (Department's Hearing Summary, Appellant's Hearing Summary)
9. On [REDACTED], 2018, the Appellant's attorney sent a response via mail to the Department's request for information. (Appellant's Hearing Summary, Ex. D: [REDACTED] activity chronology)
10. On [REDACTED], 2018 the Department sent the Appellant's attorney a W-1348M, Worker Generated Request for Proofs, and an Explanation of Deposits/Withdrawals worksheet requesting additional information needed to determine eligibility. The due date for the requested information was [REDACTED] 2018. (Department's Hearing Summary, Ex. 4: W-1348LTC, [REDACTED]/18)
11. On [REDACTED] 2018, the Appellant's attorney sent a response via mail to the Department's request for information. (Appellant's Hearing Summary Ex. D: [REDACTED] activity chronology)
12. On [REDACTED] 2018 the Department sent the Appellant's attorney a W-1348M, Worker Generated Request for Proofs, and an Explanation of Deposits/Withdrawals worksheet requesting additional information needed to determine eligibility. The due date for the requested information was [REDACTED], 2018. (Department's Hearing Summary, Ex. 5: W-1348LTC, [REDACTED]/18)
13. On [REDACTED], 2018, the Appellant's attorney's firm logged in their activity notes that the verification request was received. (Ex. D: [REDACTED], [REDACTED] activity chronology)
14. On [REDACTED], 2018, the Appellant's attorney mailed some of the requested verifications to the Department which included explanation of thirteen deposits and withdrawals from the Appellant's asset accounts. The Appellant's attorney did not submit any of the requested items via fax or contact the Department via telephone to request assistance in obtaining verifications or to request additional extensions of time to acquire the information requested. (Appellant's attorney's testimony, Ex. D: [REDACTED],

██████████ activity chronology, Ex C: Envelope showing postmarked date ██████/18 and received date stamp of ██████/18)

15. On ██████ 2018, the Department determined that it had not received any of the requested verifications by the deadline of ██████, 2018. The Department denied the Appellant's Long Term Care Medicaid Application for the reason, "You did not return all of the required proofs by the date we asked; the value of your assets is more than the amount we allow you to have, and does not meet program requirements". (Hearing Summary, Ex. E: Notice of Action dated ██████/14)
16. On ██████ 2018 the Department received the verifications sent by the Appellant's attorney via mail. The Department did not act on the verifications as the application had already been denied. (Ex. C: Envelope showing postmarked date ██████/18 and received date stamp ██████/18, Department's testimony)

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. 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 which the Department requires to determine eligibility and calculate the amount of benefits.
3. 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.
4. The Department correctly sent to the Appellant's representative application requirements lists requesting information needed to establish eligibility.
5. UPM § 3525.05(A)(c) provides in part for cooperation in the eligibility process that Applicants are responsible for cooperating with the Department in completing the application process by: providing and verifying information as required.
6. UPM § 1505.40(B)(5)(a) provides that for delays due to insufficient verification, 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.

7. UPM § 1505.40(B)(5)(b) provides that 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.
8. The Appellant's representative failed to submit at least one item of verification within the extension period.
9. UPM § 1505.35(D)(2) 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: the client has good cause for not submitting verification by the deadline, or the client has been granted a 10 day extension to submit verification which has not elapsed.
10. UPM § 3525.05 (C) provides for good cause for noncompliance with the application process: Penalties for noncooperation with the application and review processes are not imposed under the following conditions, which are considered good cause for noncompliance:
 1. circumstances beyond the assistance unit's control;
 2. failure of a representative to act in the best interests of an incompetent or disabled assistance unit.
11. The Department correctly denied the Appellant's application for failure to submit information needed to establish eligibility.

DISCUSSION


The Department denied the Appellant's application in accordance with regulations regarding the eligibility process. The Appellant's representative requested a finding of good cause for his delay in providing the verifications. The representative cited as his reason for good cause, the complexity of the case, the age of the Appellant and his spouse and that the Appellant is otherwise financially eligible for assistance. The Appellant did have the means to provide some information to the Department in order to continue the application process prior to the due date. The argument that the case complexity affected the timeliness of the submission of information is not supported by the timeline of events. The Appellant's

representative had available multiple requested verifications on the date of [REDACTED], 2018.

The representative also stated that the Department's request for information was delayed by the post office and he was not aware of the request until the day it was due. The Appellant's representative acknowledged that he could have sent the verifications by fax or could have requested an extension from the worker via phone or email to meet the deadline. The Department did not receive any of the requested items before the due date of [REDACTED] 2018 therefore its action to deny the application on [REDACTED], 2018 was correct

DECISION

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



Marci Ostroski
Hearing Officer

CC: Carol Sue Shannon, Social Services Operations Manager, Danbury RO
Fred Presnick, Yecenia Acosta, Tim Latifi, Social Services Operations
Managers, Bridgeport RO
Michelle Massicote, Fair Hearing Liaison, Bridgeport RO
[REDACTED]

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 06105-3725.

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.