

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

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

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

NOTICE OF DECISION

PARTY

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██████████
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██████████

PROCEDURAL BACKGROUND

On ██████████ 2017, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") denying her application for benefits under the Husky C Individual Receiving Home and Community Based Services Program ("W01") effective ██████████ 2017.

On ██████████ 2017, the Appellant requested an administrative hearing to contest the Department's decision to deny such benefits.

On ██████████ ██████████ 2017, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████ 2018.

On ██████████ 2018, the Appellant requested a continuance that OLCRAH granted.

On ██████████ 2018, the OLCRAH issued a notice scheduling the administrative hearing for ██████████, 2018.

On ██████████ 2018, the Appellant requested a change in the administrative hearing venue which OLCRAH granted.

On ██████████, 2018, the OLCRAH issued a notice scheduling the administrative hearing for ██████████, 2018 noting a change the administrative hearing venue.

On [REDACTED], 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:

[REDACTED], Appellant

Maria Cruz, Protective Services Worker and Witness for the Appellant

Megan Monopoli, Department Representative, participated by telephone

Molly Luciani, Interpreter, Department of Social Services

Lisa Nyren, Fair Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Appellant's application for benefits under the W01 program was correct.

FINDINGS OF FACT

1. On [REDACTED] [REDACTED], 2017, the Department received a Long-term Care/Waiver Application (W-1LTC) for Medicaid benefits under the W01 program from the Appellant. (Exhibit 5: W-1LTC Long-term Care/Waiver Application and Exhibit 4: Case Notes)
2. The Appellant is age [REDACTED] born [REDACTED]. (Exhibit 5: W-1LTC Application)
3. The Appellant is married and separated from her spouse for more than 35 years. (Exhibit 4: Case Notes and Appellant's Testimony)
4. The Appellant resides in [REDACTED]. (Hearing Record)
5. The spouse resides in [REDACTED]. (Appellant's Testimony)
6. On [REDACTED] 2017, the Department issued form W-1348LTC Verification We Need ("W1348LTC") number 1 to the Appellant requesting the following verification: bank statements for the period [REDACTED] 2015 through present for accounts ending [REDACTED]; [REDACTED] 2012, 2013, and 2014 bank statements for accounts ending [REDACTED], and [REDACTED]; spouse's demographic information; and spouse's income and asset information. The requested information was due [REDACTED] 2017. The Department enclosed a self-addressed stamped envelope. (Exhibit 4: Case Notes and Exhibit 7: W1348LTC)

7. On [REDACTED], 2017, the Department received bank statements for accounts [REDACTED] and [REDACTED] for the period [REDACTED] [REDACTED], 2017 through [REDACTED], 2017 and a copy of the Appellant's marriage certificate enclosed in the self-addressed stamped envelope provided by the Department. (Exhibit 4: Case Notes and Department Representative's Testimony)
8. On [REDACTED], 2017, the Department issued form W1348LTC number 2 to the Appellant requesting the following verification: spouse's current address; spouse's financial information; bank statements for period [REDACTED] 2015 through present accounts ending [REDACTED], [REDACTED], [REDACTED]3; and [REDACTED] 2012, 2013, 2014 bank statements for accounts ending [REDACTED], [REDACTED], [REDACTED]. The requested information was due [REDACTED], 2017. (Exhibit 4: Case Notes and Exhibit 7: W1348LTC)
9. The Appellant received the W1348LTC number 2 after the Department's due date for information and threw out the form after advice from her son. (Appellant's Testimony)
10. The Appellant did not provide the requested information listed on W1348LTC number 2 to the Department. (Appellant's Testimony)
11. The Department did not receive the requested verifications listed on W1348LTC number 2 by the [REDACTED], 2017 due date. (Department Representative's Testimony)
12. Income and asset information from the spouse is required to determine eligibility under the W01 program when an applicant is married. (Department Representative's Testimony)
13. On [REDACTED] 2017, the Department denied the Appellant's application for Medicaid under the W01 program because the Department did not receive the requested information needed to determine Medicaid eligibility under the W01 program. (Department Representative's Testimony and Exhibit 8: Notice of Action)

CONCLUSIONS OF LAW

1. Connecticut General Statute § 17b-2(6) 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") § 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.

3. UPM § 1505.10(B)(1) provides that individuals who desire to obtain aid must file a formal request for assistance.

UPM § 1505.10(B)(2) provides that the formal request must be made in writing on the application form.

UPM § 1505.10(D)(1) provides that for AFDC, AABD, and MA applications, except for the Medicaid coverage groups noted below in 1510.10 D 2, the date of application is considered to be the date that a signed application form is received by any office of the Department.

4. The Department correctly determined the date of the Appellant's application for Medicaid under the W01 as [REDACTED] 2017.
5. UPM § 1505.40(A)(1) provides that prior to making an eligibility determination the Department conducts a thorough investigation of all circumstances relating to eligibility and the amount of benefits.
6. UPM § 1015.10(A) provides that the Department must inform the assistance unit regarding the eligibility requirements of 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.

7. UPM § 1540.05(C)(1) provides that the Department requires verification of information:
 - a. When specifically required by federal or State law or regulations; and
 - b. When the Department considers it necessary to corroborate an assistance unit's statements pertaining to an essential factor of eligibility.

UPM § 4099.05(A)(1) provides that the assistance unit must verify its equity in counted assets.

UPM § 4099.05(B)(1) provides that the assistance unit must verify that it has properly reduced its equity in counted assets to within the program's limit.

UPM § 4025.67(A) provides that when the applicant or recipient who is a MCCA spouse begins a continuous period of institutionalization, the assets of his or her community spouse (CS) are deemed through the institutionalized spouse's initial month of eligibility as an institutionalized spouse (IS).

UPM § 4000.01 defines institutionalized spouse as a spouse who resides in a medical facility or long term care facility, or who receives home and community based services (CBS) under a Medicaid waiver, and who is legally married to someone who does not reside in such facilities or who does not receive such services.

UPM § 4000.01 defines MCCA spouses as spouses who are members of a married couple one of who becomes an institutionalized spouse on or after September 30, 1989, and the other spouse becomes a community spouse.

UPM § 4099.25 provides that the assistance unit must verify the amount of the deemor's equity in counted assets.

UPM § 4000.01 defines a deemor as a person from whom income or assets are deemed available to the assistance unit.

UPM § 5099.05 provides in part that all income must be verified as an eligibility requirement at the time of application, at each redetermination of eligibility, and whenever the income changes.

8. On ██████████ 2017, the Department correctly issued the Appellant a W-1348LTC form requesting income and asset information needed to establish Medicaid eligibility under the W01 program.
9. UPM § 1010 provides 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.

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.

10. The Department correctly notified the Appellant of the required actions and allowed ample time, 10 days to complete.
11. UPM § 1010.05(C)(6) provides that the assistance unit must satisfy certain procedural requirements as described in Section 3500, including cooperating with the Department as necessary. Cooperation includes:
 - a. Taking steps as required by the Department to complete the eligibility determination, periodic redetermination of eligibility, interim changes in eligibility or benefit level and Quality Control reviews.
 - b. Seeking any potential income or assets for which the unit may be eligible.

UPM § 3525.05(A)(1) provides that 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.
12. The Department correctly determined that the Appellant submitted some of the requested information needed to determine eligibility under the W01 program to the Department before the [REDACTED] 2017 due date.
13. UPM § 1505.40(B)(5) provides for delays due to insufficient verification.
 - a. 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 the time period designated by the Department but more is needed.
 - b. 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.
14. On [REDACTED], 2017, the Department correctly granted the Appellant an additional 10 day extension for submitting outstanding verification.
15. On [REDACTED] [REDACTED] 2017, the Department correctly issued a second W1348LTC form to the Appellant requesting income and asset information needed to determine Medicaid eligibility under the W01 program.
16. The Department correctly determined the Appellant failed to submit the required income and asset verification needed to determine Medicaid

eligibility under the W01 program by the [REDACTED], 2017 due date as listed on the W1348LTC number 2.

17. UPM § 1540.05(D)(1) provides for the penalty for failure to provide required verification depends upon the nature of the factor or circumstance for which verification is required:

1. If the eligibility of the assistance unit depends directly upon a factor or circumstance for which verification is required, failure to provide verification results in ineligibility for the assistance unit. Factors on which unit eligibility depends directly include, but are not limited to:
 - a. Income amounts
 - b. Asset amounts.

UPM § 4099.05(A)(2) provides that if the unit does not verify its equity in counted assets, the unit is ineligible for assistance.

UPM § 4099.05(B)(2) provides that if the unit does not verify that it has properly reduced its equity in counted assets, the unit is ineligible for assistance.

UPM § 4099.25(B) provides that if the assistance unit failed to verify the amount of the deemor's counted assets, the unit is ineligible for assistance.

18. UPM § 1505.40(B)(1)(b)(1) provides that the following provisions apply if the applicant failed to complete the application process without good cause: If assistance cannot be granted: AFDC, AABD and MA cases are denied between the thirtieth day and the last day of the appropriate promptness standard for processing the application.

19. 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.

20. The Department correctly determined the Appellant failed to establish good cause for failure to submit the requested documents listed on the W1348LTC number 2 necessary to determined eligibility for Medicaid under the W01 program.

21. UPM § 1505.35(C)(1)(c)(2) provides for the following promptness standards are established as maximum time periods for processing applications: forty-five calendar days for: AABD or MA applicants applying on the basis of age or blindness.

UPM § 1505.35(C)(2) provides that the first day of the processing period begins on the day following the date of application.

22. On [REDACTED] 2017, the thirty-sixth (36th) day of the application processing standard, the Department correctly denied the Appellant's application for Medicaid under the W01 program for failure to submit the requested information needed to establish eligibility.

23. UPM § 1505.35(B)(1) provides that the Department notifies applicants of: an actions taken on applications.

24. On [REDACTED], 2017, the Department correctly issued a Notice of Action to the Appellant informing her that her application for Medicaid under the W01 program has been denied because you did not return all the required proofs by the date we asked.

DECISION

The Appellant's appeal is denied.

Lisa A. Nyren

Lisa A. Nyren
Fair Hearing Officer

CC: Phil Ober, Social Services Operations Manager
Patricia Ostroski, Social Services Operations Manager
Megan Monopoli, Fair 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 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.