

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

██████████ 2018
Signature confirmation

Case: ██████████
Client: ██████████
Request: ██████████

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2018, the Department of Social Services (the “Department”) issued a *Notice of Action* to ██████████ ██████████ (the “Appellant”) denying his Medicaid long term care application.

On ██████████, 2018, the Appellant filed a request for an administrative hearing with the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”).

On ██████████, 2018, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) scheduled the Appellant’s 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, the OLCRAH held an administrative hearing. The following individuals attended the administrative hearing by telephone and video conferencing:

██████████, Appellant
Angella Querette, Department’s representative
Noel Lorde, Department’s representative
Eva Tar, Hearing Officer

On ██████████, 2018, the administrative hearing record closed.

STATEMENT OF ISSUE

The issue to be decided is whether the Department correctly denied the Appellant's [REDACTED] 2017 Medicaid long term care application.

FINDINGS OF FACT

1. [REDACTED] (the "Facility") is a skilled nursing facility located at [REDACTED], Connecticut. (Department's Exhibit 4)
2. On [REDACTED], 2017, the Facility admitted the Appellant as a patient. (Department's Exhibit 4)
3. On [REDACTED], 2017, the Department received the Appellant's Medicaid long term care application. (Department's Exhibit 1)
4. On [REDACTED], the Facility discharged the Appellant to his home, located at [REDACTED], Connecticut. (Department's Exhibit 4)(Appellant's testimony)
5. On [REDACTED] 2017, the Department issued a W-1348LTC: *Verification We Need* form addressed to the Appellant at the Facility, requesting verification of his accounts during the five-year look back period, proof of any other assets, proof of the face value and cash surrender value of his MetLife policy, and copies of his tax returns from 2012 to the present or a no-file letter from the IRS. (Department's Exhibit 3)
6. The [REDACTED] 2017 W-1348LTC: *Verification We Need* form gave a deadline of [REDACTED], 2017 for the return of the documentation. (Department's Exhibit 3)
7. As of [REDACTED] 2018, the Department had not received the items requested on the December 4, 2017 W-1348LTC: *Verification We Need* form from the Appellant. (Department's representative's testimony)
8. On [REDACTED] 2018, the Department denied the Appellant's Medicaid long term care application by issuing a *Notice of Action* addressed to the Appellant at the Facility. (Department's Exhibit 2)
9. The [REDACTED] 2018 *Notice of Action* stated that the Appellant had failed to return the required proofs by the date requested. (Department's Exhibit 2)
10. On [REDACTED] 2018, the Facility notified the Department of the Appellant's [REDACTED] discharge. (Department's Exhibit 4)
11. On [REDACTED] 2018, the Department emailed and mailed a Hearing Summary to the Appellant at the Facility. (Department's representative's testimony)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes in part designates the Department of Social Services as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.
2. 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. Uniform Policy Manual ("UPM") § 1015.10 (A).
3. Prior to making an eligibility determination the Department conducts a thorough investigation of all circumstances relating to eligibility and the amount of benefits. UPM § 1505.40 (A)(1).
4. The Department may complete the eligibility determination at any time during the application process when: a. the applicant withdraws the application; or b. all requirements for determining eligibility on a FS expedited service application are met; or c. the application process is complete and all required verification has been obtained; or d. adequate information exists to determine ineligibility because one or more eligibility requirements are not satisfied; or e. the applicant refuses to cooperate in completing an eligibility requirement rendering the entire assistance unit ineligible. UPM § 1505.40 (A)(4).
5. Delays Due to Insufficient Verification (AFDC, AABD, MA Only).
 - 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 a 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. UPM § 1505.40 (B)(5).
6. The Department correctly determined that the Appellant had failed to provide requested verification to the Department by the Department's [REDACTED], 2017 deadline.
7. Delays Due to Good Cause (AFDC, AABD, MA Only)
 - a. 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.
 - b. 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).

8. The Facility's failure to timely notice the Department of the Appellant's [REDACTED] discharge to his home in the community is an unusual circumstance beyond the Appellant's control.
9. The Department's issuance of a [REDACTED] 2017 W-1348LTC: *Verification We Need* form to the Appellant at a former address was a circumstance beyond the Appellant's control.
10. The Appellant had good cause for failing to provide the requested items to the Department by its [REDACTED] 2017 deadline, as the Department's issuance of the request for information was directed to a Facility of which the Appellant was no longer a resident.
11. The Department incorrectly denied the Appellant's [REDACTED], 2017 Medicaid long term care application.

DISCUSSION

The Appellant, a recent amputee, has special transportation needs and undergoes dialysis for multiple hours per day in his home.

Because of the Facility's oversight in failing to promptly report the Appellant's [REDACTED] discharge¹ to the Department, the Department issued its [REDACTED] 2017 request for verification to the Appellant at an address at which he no longer resided. The Department also issued its subsequent [REDACTED] 2018 *Notice of Action* denying the Appellant's [REDACTED] 2017 Medicaid long term care application to the Facility. As of [REDACTED], 2018, the Department had not updated its computer system to reflect the Appellant's current address.²

Upon review of the unique circumstances of this case, it is clear that the Appellant had good cause when he failed to provide the requested documentation to the Department timely. It is appropriate for the Department to reopen the Appellant's [REDACTED] 2017 Medicaid long term care application.

DECISION

The Appellant's appeal is GRANTED.

ORDER

1. The Department will reopen the Appellant's [REDACTED] [REDACTED], 2017 long-term care application.
2. If it has not already done so, the Department will update its computer systems to list the Appellant's current address of [REDACTED]

¹ The Facility notified the Department of the [REDACTED] 2017 discharge on [REDACTED] 2018, in excess of three months subsequent to his discharge date.

² The Department's [REDACTED] 2018 Hearing Summary identifies the Appellant as a Facility resident.

3. The Department will issue an updated W-1348LTC: *Verification We Need* form to the Appellant at his current address. The Department will give the Appellant a deadline that is in accordance with its policy for the submission of the requested documents.

Should the Appellant request help from the Department in obtaining the documents or additional time to submit the documents, the Department will take reasonable action to accommodate the Appellant.

4. Within 21 calendar days of the date of this decision, or [REDACTED], 2018, documentation of compliance with this order is due to the undersigned.

Eva Tar - electronic signature
Eva Tar
Hearing Officer

Cc: Angella Querette, DSS-Bridgeport
Noel Lorde, DSS-Stamford
Yecenia Acosta, DSS-Stamford

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.