

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

██████████  
██████████  
██████████

PROCEDURAL BACKGROUND

On ██████████ 2017, the Department of Social Services (the "Department") sent ██████████ (the "Applicant's Conservator") a Notice of Action ("NOA") indicating that the Department is denying ██████████ ("the Applicant") Medicaid and Long Term Care ("LTC") application for failure to provide information.

On ██████████ ██████████, 2017, the Applicant's Conservator, requested an administrative hearing to contest the Department's decision to deny the Applicant'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, at ██████████ ██████████.

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:

██████████ Applicant's Conservator of Person and Estate  
██████████, Administrator  
██████████, Account's Receivable  
Leyla Miranda, Department Representative  
Shelley Starr, Hearing Officer

The Applicant was not present at the hearing.

The hearing record remained open for the submission of additional evidence from the Department and the Applicant's Conservator. 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 Medicaid application due to failure to submit information needed to establish eligibility was correct.

### **FINDINGS OF FACT**

1. On [REDACTED], 2016, the Applicant was admitted to [REDACTED]. (Hearing Record, Conservator's Testimony)
2. The Applicant is [REDACTED] years old, [REDACTED] with a primary medical diagnosis of Dementia. (Conservator's Testimony; Exhibit C: W-1LTC Application)
3. On [REDACTED] 2016, the Department received a W-1LTC application for Long Term Care Medicaid assistance, completed by the Applicant's Conservator of Person and Estate. (Exhibit C: W-1LTC Application dated [REDACTED] 2016, Conservator's Testimony, Exhibit D: Court of Probate Certificate of Appointment dated [REDACTED] 2016)
4. The Conservator and the Department Representative agreed to have the Department correspondence be sent to the Conservator via email delivery. (Conservator's Testimony; Applicant's Exhibit 3: Email correspondence)
5. Between the period from [REDACTED] 2017 through [REDACTED] 2017, the Conservator was issued eleven (11) W-1348 LTC Verification We Need requests via email of which she timely responded. (Exhibit 1: W-1348 LTC requests dated, [REDACTED]/17, [REDACTED]/17, [REDACTED]/17, [REDACTED]/17, [REDACTED]/17 and [REDACTED]/17; Conservator's Testimony; Applicant's Exhibit 2: Memorandum [REDACTED]; Hearing Record)
6. On [REDACTED] 2017, the pending application was assigned to a new Department Representative. The Representative sent the Conservator a

W-1348 LTC request # 12 via U.S. mail to her PO Box for items needed to determine eligibility. The information was due by [REDACTED], 2017. (Exhibit F: W-1348 LTC request #12 dated [REDACTED], 2017)

7. On [REDACTED], 2017, the Department denied the Applicant's Medicaid and long term care application because information was not provided to the Department by the [REDACTED] 2017 due date. (Hearing Summary; Exhibit B: Case Narrative; Department's Testimony)
8. The newly assigned Department Representative was not aware of the arrangement between the previous Department Representative and Conservator to send correspondence via email delivery. (Department's Testimony; Hearing Record; Conservator's Testimony)
9. The Conservator did not receive the W-1348 LTC request # 12 via email. The W-1348 LTC was mailed to the Conservator at her PO Box and was not retrieved by the Conservator until after the date in which the information was due. (Conservator's Testimony; Applicant's Exhibit 2: Memorandum from [REDACTED] Hearing Record)
10. The Conservator believes that she has good cause for not providing the requested information to the Department by the [REDACTED], 2017, due date. (Conservator Testimony; Applicant's Exhibit 2: Memorandum from [REDACTED]; Hearing Record)
11. There is no evidence in the hearing record that the Department considered the Conservator's reason for her noncompliance with the Department's W-1348 LTC request # 12 by the [REDACTED], 2017, due date. (Hearing Record; 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.

**The Conservator responded timely to the Department's W-1348 LTC requests #1 through #12 sent via emailed delivery.**

3. UPM § 1015.10 (A) provides 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.

**The Department did not inform the Applicant's Conservator via the arranged email delivery method established at the beginning of the application process, of the W-1348LTC request #12 Verification We Need From You.**

4. UPM § 1505.35 (C) (2) provides that the following promptness standards be established as maximum times for processing applications: forty-five calendar days for AABD or MA applicants applying on the basis of age or blindness.
5. 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:
  - a. The client has good cause for not submitting verification by the deadline.
6. 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 exists:
  - a. Eligibility cannot be determined; or
  - b. Determining eligibility without the necessary information would cause the application to be denied.

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 incomplete; or
  2. Good cause no longer exists.
7. UPM § 1555.40 (A) provides that under certain conditions, good cause may be established if an assistance unit fails to timely report or verify changes in circumstances and the delay is found reasonable.

UPM § 1555.10(B) provides that PA assistance units may establish good cause for :

- a. Failing to report timely or
- b. Failing to provide required verification timely.

UPM § 1555.10(B)(2) provides good cause may include, but not limited to:

- a. Illness;

- b. severe weather
- c. death in the immediate family
- d. other circumstances beyond the unit's control

**The Conservator did not respond to the Department's W-1348LTC request #12 Verification We Need by the [REDACTED], 2017, due date because she was not notified of the request via email.**

**The Conservator has good cause for not providing the requested information by the [REDACTED], 2017, due date because she was anticipating the request to be sent via email, as the Department agreed to send the request by this method and had issued the prior eleven requests.**

**On [REDACTED], 2017, the Department incorrectly denied the Applicant's [REDACTED], 2016, long term care Medicaid application for failure to provide information.**

### **DISCUSSION**

After reviewing the evidence and testimony presented, the Department's action to deny the Applicant's request for long term care assistance is not upheld. Regulations require that the Department must inform the assistance unit of the eligibility requirements for the program in which they applied.

The Conservator's main argument at the hearing was that the Department agreed from the beginning of the application process to send their correspondence by email and issued eleven (11) prior requests for information via email delivery. The Conservator routinely checked her email and responded timely to the prior requests. The Conservator did not respond to the 12<sup>th</sup> request for information because the Department did not issue the W1348 LTC (request #12) by email. Once she retrieved the request that was mailed to her PO Box, the application had been denied.

It is clear that the Conservator had good cause for not responding to the Department's W-1348LTC request #12 because of circumstances that contributed to her delay of providing the requested verification by the [REDACTED], 2017, designated due date.

**DECISION**

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

**ORDER**

1. The Department shall reopen the Applicant's LTC Medicaid application as of [REDACTED] 2016, requesting any outstanding verification needed for the pending Medicaid application.
2. The Department shall submit to the undersigned verification of compliance with this order no later than [REDACTED] 2018.

  
Shelley Starr  
Hearing Officer

cc: Musa Mohamud, Hartford DSS Regional Office  
Judy Williams, Hartford DSS Regional Office  
Jay Bartolomei, Hartford DSS Regional Office  
Leyla Miranda, Waterbury DSS Regional Office  
Ruchi Patel, Administrator, Ellis Manor

### **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.

