

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

██████████  
Signature Confirmation

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

**NOTICE OF DECISION**

**PARTY**

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

██████████ **BACKGROUND**

On ██████████, the Department of Social Services (the "Department") sent ██████████ (the "Applicant") a Notice of Action ("NOA") denying benefits under the Medicaid for Long Term Care program.

On ██████████, (the "Appellant") Conservator of estate and co Conservator of person for the Applicant, requested an administrative hearing to contest the Department's decision to deny such benefits.

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

On ██████████ the Appellant contacted OLCRAH to state that she had not received notice of the hearing scheduled for ██████████.

On ██████████ OLCRAH issued a notice scheduling the administrative hearing for ██████████

On ██████████, 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 Appellant, Conservator of Estate for the Applicant, ██████████ who is incapacitated and unable to be at the hearing, Kimberly DiVirgilio, Department's representative via telephone conference call Garfield White, DSS Hearing Liaison, Hartford Regional Office Maureen Foley-Roy, Hearing Officer

The Appellant provided additional evidence on the date of hearing and the Hearing Officer requested additional evidence from the Department. By mutual agreement, the hearing record closed on ██████████

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether the Department's decision to deny the Applicant's application for medical assistance for failing to provide information was correct.

### **FINDINGS OF FACT**

1. On ██████████, the Appellant, conservator of the Applicant, submitted an application for Medicaid for care in a facility to the Department on behalf of the Applicant. (Exhibit 1: Application)
2. The application was missing much basic information, including marital status and home address. Responses to some of the questions were marked "determining". (Exhibit 1)
3. On ██████████, the Department sent a W-1348 LTC We Need Verification From You form ("W1348") to the Appellant. The form requested an extensive list of information with a due date of ██████████. The information requested included: information regarding the Applicant's marital status and spouse, copies of probate documents, including conservatorship documents- initial inventory and any accounts filed, proof of date of birth, Medicare and any other medical insurance cards with proof of premium amounts, bank statements from ██████████ 2013, ██████████ r 2014, ██████████ 2015 and ██████████ 2016 through the present for accounts at ██████████ Credit Union, and any accounts held jointly with son or any other financial accounts as well as verification of all deposits, withdrawals and checks of \$5,000 or more from those accounts, copies of all life insurance policies, trusts, funeral contracts, property deeds or documents verifying transfer of any property, proof of any other assets held by Applicant and/or spouse, proof of monthly gross Social Security and pension amounts and any other income for Applicant and spouse, proof of mortgage, property taxes, homeowner's insurance for Applicant's spouse living in the community. The request form also

contained seven questions with instructions to circle the correct response and submit to the Department.(Exhibit 2A: 1348 sent [REDACTED])

4. On [REDACTED], the Department had not received any of the information requested on the initial W1348. The Department resent the W1348 and with a note that an extension was granted and the information was due on [REDACTED]. (Exhibit 2B: W1348 Request #1 with extension date of [REDACTED] and Exhibit 4: Case Notes)
5. The Appellant preferred to communicate with the Department and to receive the W1348's via email. She expressed this preference to the Department and the Department did send some communication via email.(Appellant's testimony)
6. All of the Department's W1348 requests were sent through U. S mail. Department representative's testimony)
7. In response to the W1348 Verification We Need form sent on [REDACTED] and [REDACTED], the Department received only the Probate Fiduciary Certificate. (Exhibit 4)
8. On [REDACTED], the Department sent another W1348 request # 3 with a due date of [REDACTED]. (Exhibit 2C: W1348 Request #4 and Exhibit 4: case notes)
9. The Department granted an extension for Request # 3 to [REDACTED]. (Exhibit 2C and Exhibit 4)
10. In response to request # 3, the Department received a report of additional bank accounts but no other documentation. (Exhibit 4)
11. On [REDACTED], the Department sent a 4th W1348 with a due date of [REDACTED]. (Exhibit 2D: W1348 Request #4 )
12. In response to Request #4, the Appellant responded to a question on the form. No other information or documentation was provided. (Exhibit 4)
13. On [REDACTED], the Department sent a 5th W1348 with a due date of [REDACTED]. (Exhibit 2E: W1348 Request #5 )
14. In response to Request #5, the Department received one requested item of information. (Exhibit 4)
15. On [REDACTED] the Department sent a 6th W1348 with a due date of [REDACTED]. (Exhibit 2F: W1348 Request #6 )

16. On [REDACTED], the Department received clarification regarding some of the information provided on the application. The Department granted an extension to [REDACTED] and sent out W1348 Request # 7 (Exhibit 2G: W-1348 Request #7 and Exhibit 4)
17. The Department granted an extension to [REDACTED] and sent out W1348 request #8. (Exhibit 2H: W1348 Request #8)
18. In response to request #8, the Department received one piece of information. The Department noted that all of the previously requested verification of income and assets was still needed. (Exhibit 4)
19. On [REDACTED], the Department sent a 9th W1348 with a due date of [REDACTED]. (Exhibit 2J: W1348 Request #9)
20. On [REDACTED], the Department sent a 10th W1348 with a due date of [REDACTED]. The Department requested information regarding the Applicant's spouse, proof of her date of birth and proof of income and assets for the Applicant and her spouse. The Department requested bank statements for American Eagle account and Windsor Federal Credit from [REDACTED] of 2013, [REDACTED] of 2014, December of 2015 and [REDACTED] of 2016 through the present, as well as verification of all deposits, withdrawals, and checks of \$5,000 from those accounts. The Department asked whether or not additional probate accountings had been filed and verification of "any other assets held by applicant (or spouse): (savings bonds, stocks, IRA's, annuities, etc.)" (Exhibit 2K: W1348 Request #10)
21. On [REDACTED], the established deadline, at 9:31 pm, the Appellant sent an email responding to the question regarding additional filings and stating that there were no other investment vehicles. She indicated that statements were still pending and that the State of Connecticut was in the process of sending her a letter regarding the Applicant's pension. The Appellant did not provide any additional information or previously requested verification. (Appellant's Exhibit A: Emails)
22. In response to the Appellant's email, the Department issued a W1348 Request # 11 with a due date of [REDACTED]. The Department requested all of the information that had been listed on Request #10 with the exception of the question regarding additional filings with probate court and the request for verification of any other assets. (Exhibit 2L: W1348 Request #11). (Department representative's testimony)
23. On [REDACTED], the Department had not received a response to Request #11 and denied the application for failing to provide information. (Exhibit 3: Notice of Action and Exhibit 4)

24. On [REDACTED], the Appellant sent the Department an email with the names of the Applicant's two spouses. She stated that the pension letter was coming and that she was going to the bank the next day. (Exhibit A)
25. On [REDACTED], the Department responded to the Appellant's email to advise that the information had been due previously and that the application had been denied. (Exhibit A)
26. On [REDACTED], the Appellant responded to the Appellant's email that she had not received a denial notice. (Exhibit A)
27. The issuance of this decision is timely under Connecticut General Statutes § 17b-61(a), which requires that a decision be issued within 90 days of the request for an administrative hearing. The Appellant requested an administrative hearing on [REDACTED]. Therefore, this decision is due not later [REDACTED]. However, the hearing record, which had been anticipated to close on [REDACTED], did not close until [REDACTED] to allow for the continuance requested by the Appellant and for the review of evidence that the Appellant submitted on the date of the hearing and additional evidence requested from the Department by the hearing officer. Because of this 35 day delay in the close of the hearing record, the final decision was not due until [REDACTED], and is therefore timely.

### **CONCLUSIONS OF LAW**

1. Section 17b-2 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the Medicaid program.
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.

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.

**The Department was correct when it issued eleven W1348-Verification We Need forms with listings of outstanding information needed to determine eligibility.**

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.

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.

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.

UPM § 1505.40 B.1 (b) (1) provides that if the applicant failed to complete the application without good cause, cases are denied between the thirtieth day and the last day of the appropriate standard for processing the application.

**The Department was correct when it denied the Appellant's application because it had not received even one of the items listed on the 11th request for information by the due date.**

### **DISCUSSION**

After seven months and 11 requests for information with numerous deadline extensions granted, there was still a multitude of information needed to determine eligibility on this case. The regulations require the Department to inform an Applicant or his/her representative of information that is needed for the Department to determine eligibility. The regulations also require the Department to delay an eligibility determination and issue a ten day extension if an Applicant provides even one item of verification before the established deadline. There is no question that the Department met their obligation to advise the Appellant of what was required to determine eligibility. The Appellant responded to each request with minimal information and the Department continued to issue requests (for the same information) and extend the deadline.

The Appellant sent a brief response to the 10<sup>th</sup> request for information after business hours on the day of the deadline. The Department then issued the 11<sup>th</sup>

request. The Appellant did not respond by the deadline [REDACTED] 6) and had not responded by the end of the month [REDACTED] 30). The Department correctly denied the application for failing to provide the information needed to determine eligibility. The Appellant claims that she did not receive the 11<sup>th</sup> request. She stated that there was no evidence that the 11<sup>th</sup> request had been sent via email as some of the previous requests had been. The Department had met their responsibility of informing the Appellant of what was needed to determine eligibility. Where there was no response to the final request, the Department was correct to deny the application.

### **DECISION**

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



---

Maureen Foley-Roy,  
Hearing Officer

CC: Jess Carroll, Musa Mohamud, Judy Williams, DSS Operations Managers,  
R.O. #10, Hartford  
Kimberly DeVirgilio, Fair Hearing Liaison, DSS, Waterbury

### **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.