

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

[REDACTED]
Signature Confirmation

Client Id: # [REDACTED]
Hearing Id: # [REDACTED]

NOTICE OF DECISION

PARTY

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED] [REDACTED] (the "Appellant") Power of Attorney ("POA") for his aunt, [REDACTED], (the "Recipient") requested an administrative hearing because the Department was unable to grant assistance under the Medicaid Home Care Waiver for Adults program.

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

On [REDACTED], the Appellant contacted OLCRAH and requested a continuance of the hearing in an attempt to resolve the issue with the Department.

On [REDACTED], OLCRAH issued a notice rescheduling the administrative hearing for [REDACTED]

On [REDACTED], the Appellant contacted OLCRAH and requested another continuance of the hearing as he was still attempting to resolve the issue with the Department.

On [REDACTED], OLCRAH issued a notice rescheduling the administrative hearing for [REDACTED]

On [REDACTED] 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], the Appellant and POA for the Recipient, [REDACTED]
Barbara Brunner, Department's Representative, via telephone conference call
Ryan Barganier, DSS Fair Hearing Liaison, Waterbury Office
Maureen Foley-Roy, Hearing Officer

The hearing record was held open by mutual agreement of the Department and the Appellant to obtain information from the Department's IT division. No further information was provided and the record closed on [REDACTED].

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's delay in processing the Appellant's application for MAABD is correct.

FINDINGS OF FACT

1. The Recipient is [REDACTED] years old and is in need of home care services. She could not understand the proceedings of the hearing and has mobility issues and therefore did not attend the hearing. (Appellant's testimony)
2. On [REDACTED] [REDACTED] [REDACTED], the Department discontinued the Recipient's home care assistance benefits for failing to renew eligibility. (Exhibit 1: Department's narrative)
3. On [REDACTED], the Department received the Recipient's renewal documents. (Exhibit 1)
4. On [REDACTED], the Department was unable to initiate the renewal process in its system and sent an escalation report, generating a ticket. (ticket number 42580) (Exhibit 1)
5. In [REDACTED], the Department received all documents and established that the Recipient was eligible for title 19 Medicaid assistance under the Home Care program but could not grant the benefits due to the outstanding system issue. (Exhibit 1 and Department representative's testimony)
6. On [REDACTED], a system technician was able to grant Home Care benefits "behind the scenes" which authorized benefits through [REDACTED] while continuing to work to correct the system issue. (Exhibit 1 and Department representative's testimony)

7. The Department contacted the help desk prior to the hearing in an effort to spur them to action or at least provide the status but there was no response. (Department representative's testimony)
8. As of the date of the hearing, the Department was still unable to authorize benefits due to the system issue. Medicaid benefits had been provided to the Recipient through the end of [REDACTED]. There has been no discussion of benefits for [REDACTED] (Department representative's testimony)
9. 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 was due not later than [REDACTED], [REDACTED]. However, the hearing record, which had been anticipated to close on [REDACTED], did not close until [REDACTED] per the mutual agreement of the Department and the Appellant in the hope that the issue would be resolved. Because of this 42 day delay in the close of the hearing, 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") 2540.01 (A) provides in order to qualify for Medicaid; an individual must meet the conditions of a least one coverage group.
3. UPM § 1545.45 1 a provides for untimely filing of redeterminations and states that redetermination forms filed in the month following the redetermination month are treated as initial applications if good cause is not established for the untimely filing.
4. UPM § 1505.35 (A) provides that prompt action is taken to determine eligibility on each application filed with the Department.

UPM § 1505.35 (B) provides the Department notify applicants of: 1. Any actions taken on the applications and 2. When applications are not acted upon within the established time limits.

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

5. The standard of promptness for the Appellant's MAABD application is forty-five days.
6. UPM § 1505.35 (D) (3) provides processing standards are not used as a waiting period for granting assistance. Applications are processed with reasonable promptness as soon as the Department is able to make an eligibility determination.
7. The Department was incorrect when it failed to process the Recipient's application for medical benefits through the home care program within the standard of promptness of 45 days.

DISCUSSION

When the Recipient's medical care for home care assistance was discontinued for failing to renew eligibility, the Appellant took the correct steps to rectify the situation and submitted the required documents within days. The Department reestablished eligibility and does not dispute that the Recipient is eligible for Medicaid for Home and Community Based Services. Regulations provide that eligibility must be determined and benefits in place to eligible individuals within 45 days. Eligibility has been established and it is not fault of eligibility staff that benefits were not granted within the regulatory time frame. Failure to process and issue the benefits is due to a system issue, the problem lies with the Department's IT division (who did not provide information for this hearing.) A "work around" was completed and the Recipient was able to access Medicaid for Home and Community Based Services through the end of 2018. The Department needs to authorize ongoing Home and Community benefits for the Recipient.

DECISION

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

ORDER

The Department is ordered to issue a notice granting HUSKY C Medicaid for Home and Community Based Services. Compliance with this order is due by [REDACTED] and shall consist of proof that such notice was issued.



Maureen Foley-Roy,
Hearing Officer

Cc: Peter Bucknall, Karen Main, Operations Managers, Waterbury
Barbara Brunner, DSS LTSS Fair Hearing Liaison, Danbury
Ryan Barganier, DSS LTSS Fair Hearing Liaison, 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, law, and 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, if 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 06105-3725. 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.