

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

██████████ 2019
Signature Confirmation

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

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████ 2018, the Department of Social Services (the "Department") sent ██████████ (the "Applicant") a notice of action ("NOA") discontinuing benefits under the Medicaid for Long Term Care program for over Asset.

On ██████████ 2018, ██████████ (the "Appellant"), the Applicant's Power of Attorney requested an administrative hearing to contest the Department's decision to discontinue such benefits.

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

On ██████████ 2018, 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, Power of Attorney for ██████████

██████████, Applicant's daughter and social worker at ██████████
 ██████████
 Barbara Brunner, Department's representative via Telephone
 Ryan Borngaier, Department's Representative
 Swati Sehgal, Hearing Officer

The Applicant, ██████████, was not present at the hearing due to her institutionalization at a long term care facility.

The hearing record held open for the submission of additional evidence. On ██████████ 2018, the record closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to discontinue the Applicant's Medicaid for Long Term Care Facility Residents for exceeding the asset limit for the program was correct.

FINDINGS OF FACT

1. The Applicant is a resident of ██████████ since ██████████ 2017. (Hearing Summary)
2. On ██████████ 2018, the Applicant sold her home in ██████████ and received \$██████████. (Exhibit 2: Case Notes, Hearing Summary)
3. On ██████████ 2018, the Appellant submitted Long Term Care Medicaid renewal form along with documents showing how the Applicant spent the money down she received from the sale of property. (Hearing Summary)
4. On ██████████ 2018, the Appellant submitted bank statements showing money paid to credit cards, copy of check showing money paid to ██████████ and Funeral Agreement. (Exhibit 4: Bank statement from ██████████ and Copies of Cancelled Checks, Exhibit 5: Funeral Agreement)
5. The Department failed to acknowledge the above stated information received from the Appellant.
6. On ██████████ 2018, the Department processed the Applicant's LTC renewal form. (Hearing Summary, Exhibit 2)
7. On ██████████ 2018, the Department updated the Applicant's asset with the amount received from the sale of property and discontinued her Medicaid for Long Term Care Facility Residents for exceeding the asset

limit for the program. (Exhibit 2, hearing Summary, Exhibit 1: Notice of Action; [REDACTED])

8. On [REDACTED] 2018, the Department issued a Notice discontinuing the Applicant's Medicaid for Long Term Care Facility Residents for exceeding the asset limit for the program. (Exhibit 1, Exhibit 2)
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], 2018. Therefore, this decision is due not later than [REDACTED] 2019.

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.
3. UPM § 1015.10(A) provides that 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.
4. UPM §1545 provides the eligibility of an assistance unit is periodically redetermined by the Department. During the redetermination, all factors relating to eligibility and benefit level are subject to review.
5. UPM §1545.05 (A) (1) provides eligibility is redetermined: a. regularly on a scheduled basis; and b. as required on an unscheduled basis because of known, questionable or anticipated changes in assistance unit circumstances.
6. UPM §1545.05 (A) (2) provides a redetermination constitutes: a. a complete review of AFDC, AABD or MA certification.
7. UPM §1545.05 (A) (3) provides, in general, eligibility is redetermined through the same methods by which eligibility is initially determined at the time of application.

8. UPM §1545.05 (B) (1) provides the purpose of the redetermination is to review and, for FS assistance units, to recertify all circumstances relating to: a. need; b. eligibility; c. benefit level.
9. The Appellant provided a redetermination form to the Department in timely manner.
10. UPM §1545.15 (A) (1) provides that the Department is required to provide assistance units with timely notification of the scheduled redetermination.
11. UPM §1545.15 (B) (1) (b) provides that notice of the redetermination must be issued no earlier than the first day, or later than the last day of the month preceding the redetermination month.
12. UPM §1545.25 (D) provides that Assistance units that do not complete the redetermination form within the time limits specified in this chapter may be subject to discontinuance or an interruption in benefits.
13. 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.
14. UPM §1545.35 (D) provides that an assistance unit is considered to have timely submitted the required information if it is provided to the appropriate district office by the later of the following dates:
 1. the deadline for filing the redetermination form; or
 2. ten days following the date the verification is initially requested by the Department.
15. The Department failed to inform the assistance unit when it reviewed the redetermination form of any required verification.
16. 14. UPM §1540.10(D) states that the Department considers all evidence submitted by the assistance unit or received from other sources.
17. The Department failed to address the additional information the Appellant submitted with the redetermination form showing that the Applicant has spent down the amount she has received from property sale.
18. The Department incorrectly discontinued the applicant's Medicaid for Long Term Care Facility Residents.

DISCUSSION

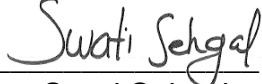
Based on the evidence and testimony submitted at the hearing, I conclude that the Department's action was incorrect. The Department failed to assess the information submitted by the Appellant regarding the Applicant's asset. The Department failed to inform the Appellant of any required verification to complete the redetermination. The Department only reviewed the documents submitted by the Appellant after it received the Notice of Fair Hearing and mailed W1348 to the Applicant asking for additional information. It should be noted that that the Appellant provided additional information at the time of hearing.

DECISION

The Appellant's appeal is **Remanded back to the Department**

ORDER

1. The Department shall rescreen Applicant's medical back to [REDACTED] 2018.
2. The Department shall review the additional information submitted by the Appellant and continue to process the Applicant's redetermination.
3. Compliance with this order is due by [REDACTED], 2019.


Swati Sehgal
Hearing Officer

CC: Peter Bucknall, Operations Manager, DSS R.O. #60, Waterbury
Karen Main, Operations Manager, DSS R.O. #60, Waterbury
Barbara Brunner , 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.

