

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

[REDACTED], 2019
Signature Confirmation

Client ID # [REDACTED]
Request # 132816

NOTICE OF DECISION

PARTY

[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED] 2018, the Department of Social Services (the "Department") sent [REDACTED] (the "Applicant") a Notice of Action ("NOA") granting Long Term Care Medicaid benefits [REDACTED] 2018.

On [REDACTED] 2018, [REDACTED] of [REDACTED] requested an administrative hearing on behalf of the applicant and his Power of Attorney, to contest the effective date of the Long Term Care Medicaid benefits as determined by the Department.

On [REDACTED] 2018, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for [REDACTED] 2019.

On [REDACTED] 2019, 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:

[REDACTED], [REDACTED], Representative, via telephone
Elizabeth Clark, Department Representative, via telephone
Shelley Starr, Hearing Officer

The Applicant, was not present at the hearing due to his institutionalization.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to grant Long Term Care Medicaid benefits effective [REDACTED] 2018, was correct.

FINDINGS OF FACT

1. On [REDACTED] 2018, the Applicant was admitted to [REDACTED] [REDACTED] (the "nursing facility"), a skilled nursing facility. (Representative's Testimony; Exhibit 3: W-1LTC Application)
2. On [REDACTED], 2018, [REDACTED] faxed to the Department of Social Services ("the Department") New Haven Regional office to fax 203-974-8005, a twenty page (20) W-1LTC application on behalf of the Applicant for Long Term Care Facility ("LTCF") Medicaid. [REDACTED] [REDACTED] made four attempts to fax the W-1LTC application to the Department on [REDACTED], 2018, with the fourth attempt delivered successfully. (Representative's Testimony; Applicant's Exhibit B: Faxed Confirmation and Correspondence packet dated [REDACTED], 2019; Hearing Record)
3. On [REDACTED], 2018, in addition to faxing the W-1LTC application to the Department, [REDACTED] mailed via UPS, the W-1LTC application packet to the Department. (Representative's Testimony; Hearing Record; Exhibit 3: W-1LTC received [REDACTED] 2018)
4. On [REDACTED] 2018, the Department received by mail a W-1LTC application for LTCF Medicaid for the Applicant. (Exhibit 3: W-1LTC Application received [REDACTED] 2018; Hearing Summary)
5. The Department acknowledges that they received an incomplete faxed W-1LTC application on behalf of the Applicant on [REDACTED] 2018. (Exhibit 5: Email correspondence; Hearing Record)
6. On [REDACTED] 2018, the Department granted LTCF Medicaid for the Applicant based on the application received on [REDACTED] 2018, with an effective date of [REDACTED] 2018, and ongoing months. (Exhibit 6: Notice of Action dated [REDACTED], 2018; Hearing Summary)
7. The Applicant is seeking a Medicaid effective date of [REDACTED] 2018. (Hearing Summary; Representative's Testimony; Hearing Record)

CONCLUSIONS OF LAW

1. Connecticut General Statutes § 17b-2(6) provides that the Department of Social Services is designated as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Uniform Policy Manual ("UPM") § 1505.10 (B) provides for Requesting Assistance and states that (1) individuals who desire to obtain aid must file a formal request for assistance (2) the formal request must be made in writing on the application form (3) at a minimum, the following information must be presented: (a) the full name and address of the applicant; and (b) the signature of the applicant, caretaker relative or other individual who is requesting assistance on behalf of the applicant.

On [REDACTED] 2018, [REDACTED] successfully sent via fax to the New Haven DSS Regional office, a complete 20 page W-1 LTC application.

3. UPM § 1505.10(D)(1) provides that for AFDC, AABD and medical applications, except for the Medicaid coverage groups noted below in 1510.10(D)(2), the date of application is considered to be the date that a signed application form is received by any office of the Department.

The Department incorrectly determined the Medicaid application date as [REDACTED] 2018, the date the Department received the mailed in W-1 LTC application.

The correct application date is [REDACTED] 2018, the date the Applicant submitted a complete W-1 LTC application via fax to the Department.

4. UPM § 1505.40(A)(4)(c) provides that the Department may complete the eligibility determination at any time during the application process when the application process is complete and all required verification has been obtained.

On [REDACTED] 2018, the Department completed and determined the Applicant's eligibility.

The Department made its determination based on the mailed in application received by the Department on [REDACTED] 2018.

5. UPM § 1560.10(A) provides that the beginning date of assistance for Medicaid may be one of the following: the first day of the first, second or third month immediately preceding the month in which the Department receives a signed application when all non-procedural eligibility

requirements are met and covered medical services are received at any time during that particular month.

On [REDACTED], 2018, the Applicant submitted via fax, a complete W-1 LTC application.

The Department did not explore eligibility for the month of [REDACTED] 2018, which is the [REDACTED] preceding the month in which the Department received the [REDACTED] 2018, signed application.

DISCUSSION

The main issue at the hearing is whether the Department correctly determined the Applicant's three months of retro eligibility as [REDACTED] and [REDACTED] of 2018.

The Department does not have on record as receiving a complete W-1 LTC faxed application on [REDACTED] [REDACTED] faxed W-1LTC application without the signature page on [REDACTED], 2018. In addition, the Department received a complete W-1 LTC application via UPS mail on [REDACTED] 2018. The Department determined eligibility based on the [REDACTED] 2018, application date, which is the date the Department determined that they received a complete application.

The hearing record exhibits demonstrate that on [REDACTED] 2018, four attempts were made to fax the completed W-1LTC application to the New Haven DSS Regional office. A faxed confirmation (see Applicant's Exhibit B) confirms that on the fourth attempt, a complete 20 page W-1LTC application was successfully sent on behalf of the Applicant via fax to the New Haven DSS Regional office.

Based on the testimony and evidence, the Applicant submitted his signed W-1LTC application to the Department on [REDACTED], 2018, therefore the month of [REDACTED], is the [REDACTED] month preceding the month of application. In accordance with policy, the Department shall determine eligibility for the month of [REDACTED] 2018.

DECISION

The Appellant's appeal is **GRANTED**

ORDER

1. The Department shall screen LTC Medicaid with an application date of [REDACTED] 2018.
2. The Department shall determine eligibility based on the three months, preceding the [REDACTED] 2018, application date; therefore including the retro month of [REDACTED] 2018.
3. Compliance with this order shall be submitted to the undersigned, no later than [REDACTED] 2019.



Shelley Starr
Hearing Officer

PC: Tricia Morelli, Operations Manager, DSS, Manchester
Elizabeth Clark, DSS, New Haven

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.