

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

[REDACTED], 2019
Signature Confirmation

[REDACTED]
Hearing ID # 134418

NOTICE OF DECISION

PARTY

[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED], 2018, the Department of Social Services (the "Department") sent [REDACTED] (the "Appellant"), a Notice of Action ("NOA") denying her Medicaid application for Home and Community Based Services for failure to provide information needed to establish eligibility.

On [REDACTED] 2019, the Appellant requested an administrative hearing to contest the denial of such benefits.

On [REDACTED], 2019, 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, 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], Appellant participated by telephone
[REDACTED], Appellant's Power of Attorney # 1
[REDACTED], Appellant's Power of Attorney # 2
Heather Kunkel, Social Worker with the Department, Appellant's Witness
James Dwyer, Social Work Supervisor with the Department, Appellant's Witness
Jessica Gomez, Observer with the Department
Tiffany Roman, Community Options, Department's Representative via telephone
Carla Hardy, Hearing Officer

The hearing remained open in order for the Appellant and the Department to submit additional information. The hearing record closed on [REDACTED] 2019.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly denied the Appellant's Medicaid application.

FINDINGS OF FACT

1. On [REDACTED] 2018, the Department received the Appellant's Medicaid application for Home Care services. (Exhibit 1: Application; Exhibit 3: Case Notes; Hearing Summary)
2. Heather Kunkel is the Appellant's Authorized Representative ("AREP"). The AREP is a Social Worker for the Protective Services for the Elderly ("PSE") unit with the Department. (Exhibit 1; Heather Kunkel's Testimony)
3. [REDACTED] and [REDACTED] are the Appellant's Power of Attorneys ("POA"). Neither is listed on the Appellant's application as such. (Exhibit 1; Appellant's Exhibit D: Statutory Power of Attorney; Testimony)
4. On [REDACTED] 2018, the Department sent the Appellant and her AREP the first Verification We Need ("W-1348LTC") requesting proof of citizenship, assets and real estate owned within the last five years, verification that the Appellant applied for veteran's survivor benefits, copy of her Long Term Care Insurance policy and that the remaining visits on the policy have been exhausted, and an explanation of certain transactions from the transaction worksheet. The requested information was due by [REDACTED], 2018. (Exhibit 2: W-1348LTC dated [REDACTED]/18 through [REDACTED]/18)
5. Between [REDACTED] 2018, and [REDACTED], 2018, the Department issued 13 W-1348LTCs to the Appellant and the AREP. The Appellant submitted additional information after each request from the Department. (Exhibit 2; Exhibit 3: Case Notes)
6. On [REDACTED] 2018, the Department issued a W-1348LTC to the Appellant and the AREP requesting the verification of how the \$5,800.00 in withdrawals from the chart below were spent and verification of the type of [REDACTED] account that [REDACTED] 2016, deposit in the amount of \$5,000.00 came from and the bank statements from that [REDACTED] account for the months of [REDACTED]/13, [REDACTED] 14, [REDACTED]/15 and [REDACTED] 2016 through the present if that account is a checking or savings account. The requested information was due by [REDACTED], 2018:

Date	Amount
[REDACTED]/16	\$1,000.00
[REDACTED]/16	1,000.00

█/16	800.00
█/16	1,000.00
█/16	1,000.00
█16	1,000.00
Total	\$5,800.00

(Exhibit 2)

7. The Department does not know if the █ account was a checking, savings or credit card account. (Department's Testimony)
8. On █, 2018, the Appellant's AREP emailed the Department regarding the information that was requested on the W-1348LTC dated █ 2018. She reported that POA # 2 stated he sent the requested information about one week ago. The \$1,000.00 withdrawals were taken out of the Appellant's account by POA # 2 in order to pay him and the weekend aides for her care. She reported the █ deposit was an advance from the Appellant's credit card, not a bank account. (Exhibit 7: Emails between the Department and the AREP; Appellant's Exhibit E: Emails between the Department and the AREP)
9. On █, 2018, the Department responded to the AREP's email dated █ 2018. The Department asked the AREP if there were care plans for POA # 2 or) or the aids. (Exhibit 7; Exhibit E)
10. The AREP responded that time sheets were submitted for POA # 1. (Exhibit 7)
11. On █, 2018, the Department informed the AREP by email that they did not have any documents regarding any payments for POA # 1 for the following dates and amounts:

Date	Amount
█/16	\$1,000.00
█/16	1,000.00
█/16	800.00
█/16	1,000.00
█/16	1,000.00
█/16	1,000.00

The Department indicated they received a letter from POA # 1 regarding the cash payments that he received between █, 2016 and █, 2016. The Department asked the AREP if the Appellant had any receipts for the withdrawals listed above, in addition to a copy of the █ credit card statement showing the withdrawal. (Exhibit 7; Exhibit E)

12. On █, 2018, the Department emailed the AREP notifying her that the case would be denied if no additional verifications were provided. (Exhibit 7)

13. The AREP responded that the Appellant's family stated that they sent documents regarding the verification last week. (Exhibit 7)
14. On [REDACTED] 2018, the Department informed the AREP by email that it had not received the information that was requested on the W-1348LTC dated [REDACTED] 2018. (Exhibit 7)
15. On [REDACTED] 2018, the Department sent the Appellant a notice denying HUSKY C-Home and Community Based Services for failure to return all of the required proofs. (Exhibit 4: NOA, [REDACTED]/18)
16. 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] 2019. Therefore, this decision was due not later than [REDACTED] 2019. However, the close of the hearing record, which had been anticipated to close on [REDACTED] 2019, did not close for the admission of evidence until [REDACTED] 2019, at the Appellant's request. Because this 7 day delay in the close of the hearing record arose from the Appellant's request, this final decision was not due until [REDACTED], 2019, and is therefore timely.

CONCLUSIONS OF LAW

1. Section 17b-2(6) of the Connecticut General Statutes 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") 1010 provides that the assistance unit, by the act of applying for or receiving benefits, assumes certain responsibilities in its relationship with the Department.
3. 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 (Cross Reference 1555).
4. UPM § 1540.05(C)(1) provides that the Department requires verification of information:
 - a. when specifically required by federal or State law or regulations; and
 - b. when the Department considers it necessary to corroborate an assistance unit's statements pertaining to an essential factor of eligibility.
5. UPM § 3525.05 provides that as a condition of eligibility, members of the assistance unit are required to cooperate in the initial application process and in reviews, including those generated by reported changes, redeterminations and Quality Control. (Cross reference: Eligibility Process 1500)

6. UPM § 3525.05(A)(1) provides that applicants are responsible for cooperating with the Department in completing the application process by:
 - a. fully completing and signing the application form; and
 - b. responding to a scheduled appointment for an interview; and
 - c. providing and verifying information as required.
7. UPM § 1015.05(C) provides 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.
8. The Department correctly issued a *W-1348LTC* on [REDACTED] 2018, requesting that the Appellant provide verification of what the withdrawals from [REDACTED], 2016 through [REDACTED], 2016, in the amount of \$5,800.00 were for and for the verification of the type of [REDACTED] account that the \$5,000.00 deposit came from.
9. UPM § 1540.05(D)(1) provides that the penalty for failure to provide required verification depends upon the nature of the factor or circumstance for which verification is required. If the eligibility of the assistance unit depends directly upon a factor or circumstance for which verification is required, failure to provide verification results in ineligibility for the assistance unit. Factors on which unit eligibility depends directly include, but are not limited to income and asset amounts.
10. On [REDACTED], 2018, the Department correctly denied the Appellant's application for Medicaid for Home and Community Based Services when it did not receive the documentation necessary to determine eligibility.

DECISION

The Appellant's appeal is DENIED.



Carla Hardy
Hearing Officer

Pc: Fred Presnick, Department of Social Services ("DSS"), Bridgeport
Yecenia Acosta, DSS, Bridgeport
Tim Latifi, DSS, Bridgeport
Tiffany Roman, DSS, Greater Hartford

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 Legal Counsel, Regulations, and Administrative Hearings, 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 06105-3725. 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 his 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.