

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

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

Client ID # ██████████
Request # 135995

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2019, the Department of Social Services (the “Department”) sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) denying her request for Medicaid under the Long Term Care Program effective ██████████ 2018.

On ██████████ 2019, ██████████ (the “Conservator”), the Conservator of the Person and the Estate for the Appellant requested an administrative hearing to contest the Department’s decision to deny such benefits.

On ██████████ 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2019.

On ██████████ 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:

██████████, Conservator of the Person and the Estate of the Appellant
██████████, Staff Attorney, ██████████
██████████ Legal Secretary, ██████████

[REDACTED], Business Office Manager, [REDACTED]
 Johnny Brown, Department Representative
 Shawn Hardy, Department Representative
 Victor Robles, Department Representative
 Pablo Castellanos, Interpreter, Interpreters and Translators, Inc.
 Lisa Nyren, Fair Hearing Officer

The record remained open for the submission of additional evidence. On [REDACTED], 2019, the record closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Appellant's application for Medicaid under the LTC program effective [REDACTED] 2018 was correct.

FINDINGS OF FACT

1. On [REDACTED] 2018, [REDACTED] (the "facility"), a skilled nursing facility admitted the Appellant to their facility. The Appellant has Alzheimer's disease and is completely dependent on others. (Business Office Manager's Testimony and Conservator's Testimony)
2. On [REDACTED] 2018, [REDACTED] (the "Conservator") accepted his appointment as the Appellant's Conservator of the Person and Conservator of the Estate replacing the Appellant's daughter as conservator after she returned to [REDACTED]. (Exhibit D: Certificate of Conservatorship and Conservator's Testimony)
3. On [REDACTED] 2018, the Conservator completed an application for Medicaid under the LTC program on behalf of the Appellant with the Department. (Exhibit 1: Long-term Care/Waiver Application and Department Representative's Testimony)
4. On [REDACTED] [REDACTED] 2018, the Conservator completed for W287 Authorization for Disclosure of Information from a Provider to the Department of Social Services ("form W287") in which the Conservator gave [REDACTED] (the "bank"), the Appellant's bank located in [REDACTED], permission to disclose financial information to the Department. (Exhibit 4: Request for Bank Account Information)

5. On [REDACTED] 2018, the Department issued the Conservator and the facility a Verification We Need (“W-1348LTC”) form requesting additional information from the Appellant necessary to determine eligibility under the LTC program. The notice requested monthly statements from the bank for the following months: [REDACTED] through [REDACTED] and [REDACTED] through closing.” The notice requested proof of all transactions of \$1,000.00 or more and proof of deposits of \$5,000.00 or more. The Department commented, “A letter was mailed to [the bank] in hope of assisting with retrieving the bank statements.” The notice listed the due date for the proof as [REDACTED] 2018. The notice informed the Conservator and the facility that the Department would take action on the Appellant’s application no later than [REDACTED] 2019. (Exhibit 2: Verification We Need and Exhibit 3: Verification We Need)
6. On [REDACTED] 2018, the Department issued a letter to the bank requesting “bank statements or printouts of account activity for all accounts listed above including statements for [REDACTED] through [REDACTED] and [REDACTED] through close (including the date of closure).” The Department enclosed form W287 with the bank letter. (Exhibit 4: Request for Bank Account Information)
7. On [REDACTED] 2019, the Department denied the Appellant’s application for Medicaid under the LTC program because the Department did not receive the requested verification, specifically bank documents, from the Conservator on behalf of the Appellant by the [REDACTED] 2018 due date listed on the W-1348LTC. (Hearing Record)
8. On [REDACTED] 2019, the Conservator submitted a document from the bank to the Department confirming the Appellant opened the bank account on [REDACTED]. (Department Representative’s Testimony)
9. On [REDACTED] 2019, the Department received bank statements directly from the bank for the requested periods: [REDACTED] through [REDACTED]. (Department Representative’s Testimony)
10. The issuance of this decision is timely under Connecticut General Statute § 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. 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]. Therefore, this decision is due not later than [REDACTED] 2019, and is therefore timely.

CONCLUSIONS OF LAW

1. Connecticut General Statute § 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 provides that the application process outlines the general methods and requirements used in obtaining assistance and in determining an assistance unit’s initial eligibility. The application process is essentially the same for all programs. It is designed to provide aid in a prompt and efficient manner to those who request assistance.
3. UPM § 1505.10(B)(1) provides that individuals who desire to obtain aid must file a formal request for assistance.

UPM § 1505.10(B)(2) provides that the formal request must be made in writing on the application form.

UPM § 1505.15(C)(1)(a)(3) provides that the following individuals are qualified to request cash or medical assistance, be interviewed and, complete the application process on the behalf of others who they represent: a conservator, guardian or other court appointed fiduciary.

4. The Department correctly determined the Conservator qualified to submit an application for Medicaid on behalf of the Appellant.
5. UPM § 1505.10(D)(1) provides that for AFDC, AABD, and MA applications, except for the Medicaid cover 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.
6. The Department correctly determined the date of application as [REDACTED] 2018.
7. UPM § 1505.35(A)(1) provides that prompt action is taken to determine eligibility on each application filed with the Department.
8. 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.

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.

9. On [REDACTED] 2018, the Department correctly issued the Conservator a W1348LTC form requesting bank information needed to establish Medicaid eligibility for the Appellant and informed the Conservator that the Department has made a request to the bank on the Appellant's behalf to obtain the outstanding bank documentation listed on the W1348LTC form.

10. UPM § 1505.35(A)(2) provides that reasonable processing standards are established to assure prompt action on applications.

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

UPM § 1505.35(C)(2) provides that the first day of the processing period begins on the day following the date of application.

11. The Department correctly calculated the standard of promptness date as [REDACTED] 2019.

12. UPM § 1505.35(D)(2) provides that the Department determines eligibility within the standard of promptness for the AFDC, AABD, and MA programs except when verification needed to establish eligibility is delayed and one of the following is true:

- a. The client has good cause for not submitting verification by the deadline; or
- b. The client has been granted a 10 day extension to submit verification which has not elapsed; or
- c. The Department has assumed responsibility for obtaining verification and has had less than 10 days; or
- d. The Department has assumed responsibility for obtaining verification and is waiting for material from a third party.

13. UPM § 1505.40(B)(2)(a) provides that the Department cannot postpone the eligibility determination beyond the standard thirty, forty-five or ninety day processing period if due to an administrative delay the only information needed is verification of non-citizen status.

14. UPM § 1505.40(B)(4)(a) provides that the eligibility determination is delayed beyond the AFCD, AABD or MA processing standard if because

of unusual circumstances beyond the applicant's control, the application process is incomplete and one of the following conditions exists:

1. Eligibility cannot be determined;
2. Or determining eligibility without the necessary information would cause the application to be denied.

15. The Department incorrectly determined the processing period could not be postponed beyond the 45 day standard of promptness. The Appellant's medical condition prevented her from contacting the bank directly to obtain the outstanding documentation requested by the Department. Third party delays caused by the Appellant's bank prevented the Conservator and the Department from obtaining the outstanding verifications requested by the Department timely. The Conservator requested the assistance of the Department to obtain the necessary documentation from the bank by signing the form W287 at time of application. The Department accepted the request for assistance and submitted a request for bank documents on behalf of the Appellant assuming the responsibility of obtaining the verification directly from the third party, the bank. Such are unusual circumstances beyond the Appellant's control and reasons for postponing an eligibility determination beyond the 45 day standard of promptness.

16. UPM § 1505.40(B)(4)(b) provides that if the eligibility determination is delayed, the Department continues to process the application until:

1. The application is complete; or
2. Good cause no longer exists.

UPM § 1505.40(B)(2)(b) provides that if the eligibility determination is delayed, the Department continues to process the application until a decision can be made.

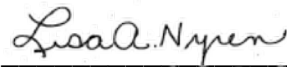
17. The Department incorrectly denied the Appellant's application for Medicaid under the LTC program for failure to submit information needed to establish eligibility because the Department assumed responsibility for obtaining the requested documentation and due to a third party delay, the submission of the requested documentation was late.

DECISION

The Appellant's appeal is granted.

ORDER

1. The Department must reopen the Appellant's application for Medicaid under the LTC program effective [REDACTED] 2018 and continue to process eligibility.
2. Compliance is due 10 days from the date of this decision.



Lisa A. Nyren
Fair Hearing Officer

CC: Attorney [REDACTED]
Musa Mohamud, DSS RO #10
Judy Williams, DSS RO #10
Jessica Carroll, DSS RO #10
Jay Bartolomei, DSS RO #10
Johnny Brown, DSS RO #10

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.