

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 # 136307

NOTICE OF DECISION

PARTY

██████████
██████████
██████████
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PROCEDURAL BACKGROUND

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

On ██████████ 2019, ██████████, (“POA”) Power of Attorney for the Appellant, requested an administrative hearing on behalf of the Appellant 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:

██████████, Power of Attorney for the Appellant
██████████ Conservator of the Estate for the Appellant
Michael Briggs, Department Representative
Leigh Hunt, Department Representative
Lisa Nyren, Fair Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Appellant's application Medicaid under the Long Term Care ("LTC") program was correct.

FINDINGS OF FACT

1. On [REDACTED] 2018, [REDACTED] (the "conservator") accepted an appointment by the [REDACTED] Probate Court as the Appellant's Conservator of the Estate. (Exhibit 12: Certificate/Conservatorship)
2. On [REDACTED] 2018, [REDACTED] (the "facility") admitted the Appellant for long term care to their facility. (Hearing Record)
3. On [REDACTED] 2018, the Appellant appointed [REDACTED] ("POA") as her power of attorney. (Exhibit 10: Durable Statutory Power of Attorney)
4. On [REDACTED] 2018, the Department received an application for Medicaid under the LTC program submitted by the facility on behalf of the Appellant. The facility completed Section D – Authorized Representative listing the facility as the Appellant's authorized representative. The facility signed the application on behalf of the Appellant. The application listed home property with a reverse mortgage and the Appellant's income source as social security and pension. The application reported assets as a bank account listing the owner of the account as self – conservator and a car. The facility failed to disclose the name of the conservator on the application. The facility failed to disclose the appointment of a POA by the Appellant on the application. (Exhibit 1: Long-term Care/Waiver Application)
5. On [REDACTED] 2018, the Department issued the facility a We Need Verification from You ("W1348LTC") form. The Department requested the following information: spouse death certificate, Ascend approval from nursing home, copy of conservator appointment and estate inventory, bank account statements from [REDACTED]/2016 to present and end of year statements for [REDACTED] 2013, [REDACTED] 2014, and [REDACTED] 2015, property deed, mortgage, copy of property listing agreement for sale of home property, and tax returns for 2013 through the present. The Department listed the due date for the information as [REDACTED] 2018. (Exhibit 2: W1348LTC Request 1)
6. On [REDACTED] 2018, the Department issued the facility a W1348LTC form. The Department requested the following information: Ascend

- approval from nursing home, bank account statements from [REDACTED]/2016 to present and end of year statements for [REDACTED] 2013, [REDACTED] 2014, and [REDACTED] 2015, property listing agreement for sale of home property, reverse mortgage statements from [REDACTED]/2013 to present. The Department listed the due date for the information as [REDACTED] 2018. (Exhibit 3: W1348LTC Request 2)
7. On [REDACTED] [REDACTED] 2018, the Department issued the facility and the conservator a W1348LTC form. The Department requested the following information: bank account statements from [REDACTED]/2016 to present and end of year statements for [REDACTED] 2013, [REDACTED] 2014, and [REDACTED] 2015 including account with reverse mortgage proceeds, property listing agreement, reverse mortgage statements for transaction history from [REDACTED]/2013 to present and tax returns for 2013 through present. The Department listed the due date for the information as [REDACTED] 2018. (Exhibit 4: W1348LTC Request 3)
 8. On [REDACTED], 2018, the United States Postal Service (“USPS”) returned the W1348LTC issued on [REDACTED] 2018 to the conservator listing “Not deliverable as addressed.” The Department mailed the W1348LTC to the conservator’s former address as listed on the on the Probate Court Conservatorship document. (Exhibit 9: Return Postal Mail and Exhibit 12: Certificate/Conservatorship)
 9. The Department corrected the conservator’s address. (Hearing Record0
 10. On [REDACTED] 2018, the Department issued the facility and the conservator a W1348LTC form. The Department requested the following information: bank account statements from [REDACTED]/2016 to present and end of year statements for [REDACTED] 2013, [REDACTED] 2014, and [REDACTED] 2015 including account with reverse mortgage proceeds, property listing agreement for sale of home property, reverse mortgage statements from [REDACTED]/2013 to present and tax returns for 2013 through present. The Department listed the due date for the information as [REDACTED] 2018. (Exhibit 5: W1348LTC Request 4)
 11. On [REDACTED] 2018, the Department issued the facility and the conservator a W1348LTC form. The Department requested the following information: Probate accounting, proof of monthly pension for 2018 and 2019, bank account statements from [REDACTED]/2016 to present and end of year statements for [REDACTED] 2013, [REDACTED] 2014, and [REDACTED] 2015, [REDACTED] (“credit union”) statements from [REDACTED] 2018 to present, [REDACTED] (“bank [REDACTED]”) [REDACTED] 2018 to present, property listing agreement for sale of home property, and explanation of reverse mortgage transactions of \$78,222.30 on [REDACTED] 2015 and \$35,000.00 on [REDACTED] 2014. The Department listed the due

- date for the information as ██████████ 2019. (Exhibit 6: W1348LTC Request 5)
12. On ██████████ 2019, the Department issued the facility and the conservator a W1348LTC form. The Department requested the following information: Probate accounting, proof of 2019 monthly pension, bank account statements from █/2016 to present and end of year statements for ██████████ 2013, ██████████ 2014, and ██████████ 2015, credit union statements from ██████████ 2018 to present, bank ██████████ 2018 to present, property listing agreement for sale of home property, and explanation of reverse mortgage transactions of \$78,222.30 on ██████████ 2015 and \$35,000.00 on ██████████ 2014. The Department listed the due date for the information as ██████████ 2019. (Exhibit 7: W1348LTC Request 6)
 13. The Department did not receive any of the information requested on the W138LTC dated ██████████ 2019 from the facility or conservator. (Department Representative's Testimony)
 14. On ██████████ 2019, the Department denied the Appellant's application for Medicaid under the LTC program effective ██████████ 2018 because the Appellant failed to provide the requested documentation necessary to determine eligibility. (Hearing Record)
 15. On ██████████ 2019, the Department issued the Appellant a notice of action. The notice stated the Appellant's application for Medicaid under the LTC program was denied effective ██████████ 2018 because "no eligible household members, no household members are eligible for this program, does not meet program requirements, and has not been in a facility for at least 30 days." (Exhibit 8: Notice of Action)
 16. During the application process, the conservator and the POA provided some of the documents requested by the Department to the facility. The conservator and the POA did not provide any documents directly to the Department. (Conservator's Testimony and POA's Testimony)
 17. The Department did not learn of the appointment of the POA until after the Appellant's application for Medicaid under the LTC program was denied.

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”) § 1010 provides that the assistance unit, by the act of applying for or receiving benefits, assumes certain responsibilities in its relationship with the Department. This chapter describes those responsibilities which an assistance unit assumes when it applies for or receives benefits from the Department.
3. UPM § 2000.01 provides that the assistance unit consists of one or more individuals who apply for or received assistance together under one of the Department’s programs.

UPM § 2015.05(A) provides that the assistance unit in AABD and MAABD consists of only one member. In these programs, each individual is a separate assistance unit.

4. The Department correctly determined the Appellant as an assistance unit of one.
5. 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.
6. UPM § 1505.15(A)(1) provides that applicants may apply for and be granted assistance on their own behalf or, under certain conditions, be represented by other qualified individuals who act responsibility for them.

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

1. The caretaker relative of a child applicant;
2. The spouse, provided that the spouse is not estranged;
3. A conservator, guardian or other court appointed fiduciary.

UPM § 1505.15(C)(1)(b) provides if none of the above individuals are available, the following persons may file the application on the assistance unit’s behalf:

1. Another responsible assistance unit member; or
 2. An authorized representative. (cross reference 1525)
7. UPM § 1525 provides that under certain conditions an assistance unit may designate an authorized representative to act on the unit’s behalf in dealings with the Department. In the Public Assistance programs, authorized representatives serve limited functions during the application

process. However, in the FS program their role is extended into many aspects of the eligibility process. This chapter discusses the provisions for the use of authorized representatives and the duties which they may perform.

UPM § 1525.05(C)(2) provides that an authorized representative must be designated in writing by one of the following individuals: in the AABD and MA programs, by the applicant, or if the applicant is a child, incompetent or incapacitated, by the parent, custodian, or court appointed fiduciary.

8. UPM § 1525.15(A)(1)(a) provides that in the AFDC, AABD, and MA programs, the authorized representative's primary role is to allow the applicant to file an application without delay in an emergency when no other person is able to do so.

UPM § 1525.05(A) provides that an assistance unit may be represented in various aspects of the eligibility process by a responsible individual who has been given prior authorization to act as the assistance unit's representative

UPM § 1525.15(A)(1)(b) provides that the authorized representative may:

1. File the application; and
 2. Represent the assistance unit at an interview if one is conducted at the time the assistance request is filed.
9. UPM § 1525.15(C)(1)(a) provides that residents of institutions may apply for assistance and be certified on their own behalf, or through the use of an authorized representative who may be an individual of the applicant's choice or an employee designated by the institution for this purpose. In the Food Stamp program, for residents of drug and alcohol treatment centers, the authorized representative must be an employee designated by the institution.

UPM § 1525.15(C)(1)(b) provides that in order for the institution to represent an applicant, the individual must be a current resident of the institution.

10. The Department correctly determined the Appellant designated the facility as her authorized representative.
11. UPM § 1505.10(A)(1) provides that all applicants are required to complete and application form, except as noted below in 1505.10A3.

UPM § 1505.10(B)(1) provides that individuals who desire to obtain aid must file a formal requires for assistance.

12. The facility correctly filed an application for LTC Medicaid on behalf of the Appellant.
13. UPM § 1505.10(D)(1) provides that for AFDC, AABD, and MA applications, except for the Medicaid coverage groups noted below in 1510.10D.2, the date of application is considered to be the date that a signed application form is received by any office of the Department.
14. The Department correctly determined the date of the Appellant's application for Medicaid under the LTC program as [REDACTED] 2018.
15. 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.

16. On [REDACTED] 2019, the Department correctly issued the facility and the conservator a W1348LTC form requesting information needed to establish Medicaid eligibility under the LTC program for the Appellant.
17. UPM § 3525.05(A)(1) 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) 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.
18. 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).

UPM § 1540.10(A) provides that the assistance unit bears the primary responsibility for providing evidence to corroborate its declarations.

19. UPM § 1525.05(G) provides that the appointment of an authorized representative does not relieve the assistance unit of any responsibilities. Both the assistance unit and the representative may be held responsible for assistance improperly obtained through action by the authorized representative.
20. 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.
21. UPM § 1505.40(B)(5)(a) provides that regardless of the standard of promptness, no eligibility determination is made when there is insufficient verification to determine eligibility when the following has occurred:
1. The Department has requested verification; and
 2. At least one item of verification has been submitted by the assistance unit within a time period designated by the Department, but more is needed.

UPM § 1505.40(B)(5)(b) provides that additional 10 day extensions for submitting verification shall be granted, as long as after each subsequent request for verification at least one item of verification is submitted by the assistance unit within each extension period.

22. The Department correctly determined the Appellant did not qualify for an additional ten (10) day extension because the Appellant failed to submit the requested documents by the [REDACTED] 2019 due date as listed on the [REDACTED] 2019 W1348LTC form.
23. 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.

24. UPM § 1505.35(D)(4) provides that processing standards are not used as the basis for denying assistance. Denial results from the failure to meet or establish eligibility within the applicable time limit.
25. UPM § 1505.40(B)(1)(b)(1) provides that the following provisions apply if the applicant failed to complete the application without good cause: If assistance cannot be granted: AFDC, AABD, MA cases are denied between the thirtieth day and the last day of the appropriate promptness standard for processing the application.
26. The Department correctly determined the Appellant failed to establish good cause for not submitting verification by the [REDACTED] 2019 deadline.
27. On [REDACTED] 2019, the Department correctly denied the Appellant's application for LTC Medicaid effective [REDACTED] 2018 for failure to submit information necessary to establish eligibility under the Medicaid LTC program.

DECISION

The Appellant's appeal is denied.



Lisa A. Nyren
Fair Hearing Officer

CC: [REDACTED]

- Fred Presnick, DSS RO #30
- Yecenia Acosta, DSS RO #30
- Tim Latifi, DSS, RO #30
- Michael Briggs, DSS #30
- Leigh Hunt, DSS #30

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.