

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

██████████ 2019
Signature confirmation

Case: ██████████
Client: ██████████
Request: 137232

NOTICE OF DECISION

PARTY

██████████
Re: ██████████, conserved person
██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████, 2019, the Department of Social Services (the "Department") issued a *Notice of Action* to ██████████ (the "Appellant"), granting her Medicaid long-term care effective ██████████ 2018.

On ██████████ 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") received a faxed administrative hearing request, requesting that the Appellant's grant date be made retroactive to the date of an earlier application. The hearing request was signed by Attorney ██████████, the Appellant's conservator.

On ██████████ 2019, the OLCRAH issued a notice scheduling the Appellant's 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, the OLCRAH held an administrative hearing. The following individuals participated in the administrative hearing:

██████████, Appellant's representative (conservator)
Kenneth Smiley, Department's representative
Eva Tar, Hearing Officer

On ██████████ 2019, the hearing record closed.

STATEMENT OF ISSUE

The issue is whether the Department correctly determined the earliest effective date of eligibility with respect to the Appellant's [REDACTED] 2018 Medicaid long-term care application.

FINDINGS OF FACT

1. On [REDACTED] 2018, the Department issued a *Notice of Action* denying the Appellant's [REDACTED] 2018 Medicaid long-term care application; the *Notice of Action* was mailed to the Appellant's then-conservator. (Department's representative's testimony)
2. On [REDACTED] 2017, the Appellant was admitted to [REDACTED], a skilled nursing facility. (Department's Exhibit 3)
3. On [REDACTED] 2018, the [REDACTED] Probate Court appointed the Appellant's representative to be the Appellant's successor conservator of person and estate. (Appellant's conservator's testimony)
4. On [REDACTED] 2018, the Department received the Appellant's Medicaid long-term care application, signed by her conservator on [REDACTED] 2018. (Department's Exhibit 1)
5. On [REDACTED] 2019, the Department granted the Appellant's [REDACTED] 2018 Medicaid long-term care application, effective [REDACTED] 2018. (Department's Exhibit 2)
6. On [REDACTED] 2019, the Appellant's conservator filed a request for an administrative hearing to dispute the effective date of the Appellant's Medicaid long-term care coverage. (Hearing request)
7. Connecticut General Statutes § 17b-61 (a) provides that a final decision be issued within 90 days of a request for an administrative hearing. The OLCRAH received the Appellant's faxed hearing request on [REDACTED] 2019. This final decision is not due until [REDACTED] 2019. This decision therefore is timely.

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes in part designates the Department of Social Services as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.
2. "An aggrieved person authorized by law to request a fair hearing on a decision of the Commissioner of Social Services or the conservator of any such person on his behalf may make application for such hearing in writing over his signature to the commissioner and shall state in such application in simple language the reasons why he claims to be aggrieved. Such application shall be mailed to the commissioner within sixty days after the rendition of such decision...." Conn. Gen. Stat. § 17b-60.

“The request for a Fair Hearing must be made within a specified period for time from the date that the Department mails a notice of action. a. for all programs except Food Stamps, this period is 60 days.” Uniform Policy Manual (“UPM”) § 1570.05 (H)(1)(a).

“The Department denies or dismisses a request for a Fair Hearing if: 1. The request for the fair hearing is not made within the time limits described in this section;...” UPM § 1570.05 (C)(1).

State statute and regulation prohibit the undersigned hearing officer from revisiting the denial of the Appellant’s [REDACTED] 2018 application, as the conservator’s [REDACTED] 2019 request for an administrative hearing was filed in excess of 60 days¹ following the Department’s [REDACTED] 2018 Notice of Action.

3. “For AFDC, AABD and MA 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.” UPM § 1505.10 (D)(1).

The Department correctly determined that [REDACTED] 2018 was the Appellant’s date of application, as that was the date that the signed application form was received by the Department.

4. “The beginning date of assistance for Medicaid may be one of the following:
 - A. 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; or
 - B. the first day of the month of application when all non-procedural eligibility requirements are met during that month; ...” UPM §§ 1560.10 (A) and 1560.10 (B).

The beginning date of Medicaid assistance as related to the Appellant’s [REDACTED] 2018 Medicaid application is [REDACTED] 2018, the first day of the third month immediately preceding the month in which the Department received the Appellant’s signed [REDACTED] 2018 application and when all non-procedural eligibility requirements were met and covered medical services received in that month.

The Department correctly determined the earliest effective date of eligibility with respect to the Appellant’s [REDACTED] 2018 Medicaid long-term care application.

DISCUSSION

The Department granted the Appellant’s [REDACTED] 2018 Medicaid long-term care application, authorizing medical coverage to begin [REDACTED] 2018. The Appellant seeks an earlier effective date of coverage, asking the Department to reopen a previously denied [REDACTED] Medicaid application that had been filed by the Appellant’s prior conservator.

¹ The span between [REDACTED] 2018 and [REDACTED] 2019 numbers [REDACTED] days.

At the [REDACTED] 2019 administrative hearing, the hearing officer orally ruled that revisiting the correctness of the Department's denial on the prior application through the administrative hearing process was time-barred. The Appellant's [REDACTED] 2019 hearing request was filed in excess of 60 days following the Department's [REDACTED] 2018 *Notice of Action*.²

The Appellant argues that the hearing officer has "equitable discretion" to order the Department to grant the Appellant Medicaid coverage earlier than [REDACTED] 2018. The hearing officer disagrees. Issuing such an order would ignore the scope of the hearing officer's authority as provided by statute and regulation; the action would be arbitrary, capricious, and, ironically, an abuse of discretion.

The Department's grant of the Appellant's [REDACTED] 2018 Medicaid long-term care application effective [REDACTED] 2018 is supported by Sections §§ 1560.10 (A) and 1560.10 (B) of the Department's Uniform Policy Manual.

DECISION

The Appellant's appeal is DENIED.

Eva Tar - electronic signature
Eva Tar
Hearing Officer

Cc: Attorney [REDACTED]
Kenneth Smiley, DSS-Willimantic
Tonya Cook-Beckford, DSS-Willimantic
Glenda Gonzalez, DSS-New Haven
Rachel Anderson, DSS-New Haven
Cheryl Stuart, DSS-New Haven
Lisa Wells, DSS-New Haven

² Conn. Gen. Stat. § 17b-60, UPM § 1570.05 (H)(1)(a), and UPM § 1570.05 (C)(1).

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.

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 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.