

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

2019
Signature Confirmation

[Redacted]

NOTICE OF DECISION

PARTY

[Redacted]

PROCEDURAL BACKGROUND

On [Redacted] 2018, [Redacted] (the "Applicant"), applied for Long Term Care Medicaid ("LTC") from the Department of Social Services (the "Department").

On [Redacted] 2019, [Redacted], (the "Appellant") and Applicant's Conservator requested an administrative hearing to contest a delay in the processing of the LTC 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 and Applicant's Conservator
Shayla Streater, Department's Representative
Saya Miakoshi, Observer with the Department
Carla Hardy, Hearing Officer

The Applicant did not attend the hearing due to health reasons.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department is responsible for a delay in processing an application made by the Appellant for LTC benefits.

FINDINGS OF FACT

1. On [REDACTED] 2018, the Appellant applied for LTC and Home Care assistance on the Applicant's behalf. (Exhibit 6: Application, [REDACTED]/18)
2. The Applicant is not married and is [REDACTED] years old (DOB [REDACTED]). (Exhibit 6)
3. [REDACTED] (the "Appellant") is the Applicant's Conservator who was appointed on [REDACTED] 2018. (Exhibit 6; Appellant's Exhibit E: Fiduciary's Probate Certificate/Conservatorship; Hearing Record)
4. On [REDACTED] 2018, the Department reviewed the Applicant's application. They requested she provide proof of her [REDACTED] medical coverage, gross pension amount, bank statements for all accounts at [REDACTED], and the property deed. They also informed the Appellant that they were unable to determine eligibility for long term care until the Applicant found placement in a skilled nursing facility. The requested verification was due by [REDACTED] 2018. (Exhibit 1: Verification We Need # 1; Exhibit 9: Case Notes)
5. In [REDACTED] 2018, the Department received a copy of the property deed and the [REDACTED] information. (Exhibit 9)
6. On [REDACTED], 2018, the Department requested verification of the Applicant's gross pension, all [REDACTED] statements from [REDACTED] 2016 through the present and the [REDACTED] only [REDACTED] statements from 2013, 2014, and 2015. They also requested a copy of the property deed. The requested information was due by [REDACTED], 2018. (Exhibit 2: Verification We Need # 2; Exhibit 9)
7. On [REDACTED] 2018, the Appellant reported she had information to mail to the Department. The Department granted her an extension of a few days. (Exhibit 9)
8. In [REDACTED] 2018, the Department received proof of the Applicant's pension. (Exhibit 9)
9. On [REDACTED] 2019, the Department requested copies of all bank statements from [REDACTED] from [REDACTED] 2016 to the present and the [REDACTED] statements from 2013, 2014 and 2015. They also requested the property deed, the name of the long term care facility where the Appellant was going to be admitted, and a copy of the listing contract for her property. The requested information was due by [REDACTED] 2019. (Exhibit 3: Verification We Need # 3)

10. On [REDACTED] 2019, the Department noted that ASCEND received a referral for home care assistance for the Applicant on [REDACTED] 2019. The Applicant was pending for LTC assistance. (Exhibit 9)
11. In [REDACTED] or [REDACTED] 2019, the Department received [REDACTED] statements for accounts ending in [REDACTED], [REDACTED], and [REDACTED]. The Department discovered unidentified [REDACTED] accounts ending in [REDACTED], [REDACTED], and [REDACTED]. (Exhibit 9)
12. On [REDACTED] 2019, the Department requested the [REDACTED] 2015 through [REDACTED] 2016 statements for the [REDACTED] account ending [REDACTED]; the [REDACTED] 2016 to the present with the [REDACTED] 2013, 2014, and 2015 [REDACTED] statements for the account ending [REDACTED]; and the [REDACTED], 2018 to the present with the [REDACTED] 2013, 2014, and 2015 [REDACTED] account ending [REDACTED]. The Department also asked for the identity of the owner(s) of the [REDACTED] accounts ending [REDACTED] and [REDACTED]. The requested verification was due by [REDACTED] 2019. (Exhibit 4: Verification We Need # 4)
13. On [REDACTED] 2019, the Appellant requested an administrative hearing. (Hearing Record)
14. The Department received the [REDACTED] account statements for the account ending [REDACTED] (Exhibit 9)
15. On [REDACTED] 2019, the Department discovered several deposits and withdrawals to and from the [REDACTED] accounts. The Appellant reported some of the withdrawals can be attributed to a [REDACTED] employee who fraudulently withdrew funds from the Applicant's accounts and that the \$113,000.00 deposit in 2017 was a return of stolen funds from [REDACTED]. (Exhibit 9)
16. The Department calculated that \$35,000.00 was withdrawn from the account. (Exhibit 9)
17. The Department requested verification of the transfers to and from the [REDACTED] account. The requested information was due by [REDACTED] 2019. (Exhibit 9)
18. A [REDACTED] employee fraudulently withdrew money from the Applicant's [REDACTED] accounts. The bank returned \$38,045.51 to the Applicant's checking account and \$39,653.78 to her savings account in [REDACTED] 2017. [REDACTED] also confirmed that the amounts deposited into the Applicant's account from [REDACTED] were from an annuity that the Applicant owned. (Appellant's Exhibit C: Email from [REDACTED] of [REDACTED] [REDACTED] 19)
19. [REDACTED] is an attorney for [REDACTED]. (Appellant's Testimony)

20. As of the date of this hearing, the Applicant's LTC application remained in pending status due to the unverified annuity and transfers. (Department's Testimony)
21. The Applicant's application has been pending for more than forty-five days. (Hearing Record)
22. 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 is due not later than [REDACTED] 2019.

CONCLUSIONS OF LAW

1. Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the Medicaid program. Conn. Gen. Stats. § 17b-2.
2. "The department's uniform policy manual is the equivalent of a state regulation and, as such, carries the force of law." *Bucchere v. Rowe*, 43 Conn. Supp. 175, 178 (1994) (citing Conn. Gen. Stat. § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A.2d 712 (1990)).
3. 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. UPM § 1015.05 C.
4. The Department correctly notified the Appellant what needed to be done in order to make an eligibility determination.
5. The Department must determine the assistance unit's eligibility within the time limits specified in Section 1500. UPM § 1015.05 A.
6. The first day of the processing period begins on the day following the date of application. UPM § 1505.35 C. 2.
7. The standard of promptness for processing AABD or MA applications for applicants applying on the basis of age or blindness is forty-five calendar days. UPM § 1505.35 C. 1. c. 2.
8. The Department failed to process the Applicant's application within forty-five calendar days of the application date.
9. UPM § 1505.40 pertains to eligibility determinations and provides in part:

Delays Due to Insufficient Verification (AFDC, AABD, MA Only)

- a. 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.
- b. 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.

UPM § 1505.40 B. 5.

10. The Department correctly allowed 10-day extensions for submitting verification.
11. The Department is correct to continue the processing of the Applicant's application.

DECISION

The Appellant's appeal is GRANTED.

ORDER

1. The Department shall review all information submitted regarding the Applicant's application for Long Term Care Medicaid.
2. If all information needed to determine eligibility has been provided, the Department shall make an eligibility determination.
3. If additional information is needed the Department shall allow the Appellant a minimum of ten days to provide the additional information.
4. Compliance with this order shall be submitted to the undersigned no later than [REDACTED], 2019.



 Carla Hardy
 Hearing Officer

Pc: Tricia Morelli, Manchester Regional Office
 Shayla Streater, Manchester Regional Office
 [REDACTED]

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.