



## **STATEMENT OF THE ISSUE**

The issue to be decided is whether the Department's decision to discontinue the Appellant's Medicaid due to failure to submit information needed to establish ongoing eligibility was correct.

## **FINDINGS OF FACT**

1. [REDACTED] 2010, the Appellant retired from Sears after 21.56 years of vesting service. The Appellant was [REDACTED] at the time of her retirement. (Exhibit 5: Sears Holdings retirement estimate)
2. On [REDACTED] 2016, [REDACTED] was appointed Conservator of Person for the Appellant. (Record)
3. On [REDACTED] 2018, the Department received from the Appellant's AREP the Appellant's LTC redetermination. The AREP included with the redetermination her sisters Sears Holdings pension selection paperwork indicating a limited time offer until [REDACTED] 2018 to select a lump-sum distribution or annuity option payment. (Exhibit 2: Department case notes; Exhibit 9: Sears Holdings notice)
4. On [REDACTED] 2019, the Department sent the Appellant's AREP a "Proofs We Need" form ("W-1348") requesting verification of motor vehicle ownership and proof of income from annuities. A [REDACTED] 19 due date was given. (Exhibit 1: W-1348; Hearing summary)
5. On [REDACTED] 2019, the Department received partial verification from the Appellant. The pension selection information from Sears Holding was not received. (Exhibit 2)
6. On [REDACTED] 2019, the Department discontinued the Appellant's LTC assistance effective [REDACTED] 2019. (Exhibit 3: Notice of action)
7. On [REDACTED] 2019, the Appellant requested an administrative hearing. (Record)
8. The Appellant is a resident of [REDACTED], Connecticut. (Record)
9. Verification from Sears Holding showing that the Appellant's AREP selected a pension distribution option for the Appellant is needed before ongoing eligibility can be determined. (Department's testimony)
10. The Appellant's AREP must make a pension distribution decision for her [REDACTED] no later than then April 1'st of the year after the year the Appellant reaches [REDACTED] In this case [REDACTED] 2021. (Exhibit 9)

11. 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, and a decision was due by [REDACTED] 2019. However, the original hearing date was rescheduled in response to an Appellant request, thereby extending the due date 27 days to [REDACTED] 2019. (Hearing Record)

### **CONCLUSIONS OF LAW**

1. Connecticut General Statutes § 17b-2 provides that the Department of Social Services is designated as the state agency for the administration of (6) the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Uniform Policy Manual (“UPM”) § 1010.05 (C) provides the assistance unit must satisfy certain procedural requirements as described in Section 3500, including 6. cooperating with the Department as necessary. Cooperation includes: a. taking steps as required by the Department to complete the eligibility determination, periodic redetermination of eligibility, interim changes in eligibility or benefit level and Quality Control reviews.

UPM 1545 provides the eligibility of an assistance unit is periodically redetermined by the Department. During the redetermination, all factors relating to eligibility and benefit level are subject to review.

UPM § 1545.05 (A) (1) provides in relevant part that eligibility is redetermined: a. regularly on a scheduled basis. (2) A redetermination constitutes: a. a complete review of AFDC, AABD and MA certification. (3) In general, eligibility is redetermined through the same methods by which eligibility is initially determined at the time of application.

UPM § 1545.05 (B) (1) provides the purpose of the redetermination is to review and, for FS assistance units, to recertify all circumstances relating to: a. need; b. eligibility; c. benefit level. (3) Circumstances subject to change, or which are unclear or questionable are investigated and verified. (4) Assistance is discontinued if eligibility is not reestablished.

UPM 1545.05 (C) provides for prompt action. 1. The redetermination process is designed to allow continuous participation without interruption in eligibility or in the issuance of benefits. 2. In order to assure continuous participation the Department takes prompt action on all redeterminations. 3. Prompt action is taken to affect any interim actions necessitated by changes in circumstances that are discovered during the redetermination process. 4. Interim actions are processed in accordance with the interim change rules. (Cross Reference: 1555)

UPM 1545.05 (D) provides for notification. Assistance units are timely notified of all actions taken by the Department, including: 1. notification that a redetermination is to be conducted; 2. notification of adverse action where appropriate; (Cross Reference: 1570); 3. notification of the result of the redetermination; 4. notice of recertification for FS assistance units.

**The Department correctly sent the Appellant's AREP a redetermination notice.**

3. UPM 1545.25 (A) provides assistance units are required to complete a redetermination form at each redetermination.

UPM 1545.25 (C) specifies the Department provides each assistance unit with a redetermination form at the same time its notice of redetermination is issued.

UPM 1545.25 (D) provides assistance units that do not complete the redetermination form within the time limits specified in this chapter may be subject to discontinuance or an interruption in benefits.

UPM § 1545.35 (B) (1) provides an assistance unit must submit the redetermination form by the following date in order to be considered timely filed. (2) The assistance unit is considered to have timely filed if by the filing deadline the redetermination form is: a. delivered in person or by mail to the appropriate district office, or for SSI assistance units being redetermined for food stamps, to an SSA office; and b. complete to the extent that a legible name and address appear on the form; and c. signed by the applicant or other qualified individual.

**The Appellant's AREP timely submitted the Appellant's redetermination form to the Department before the end of the Appellant's certification period.**

**The Department correctly sent the Appellant's AREP an Application Redetermination Requirements list requesting information needed to establish ongoing eligibility.**

4. UPM § 1545.35 (D) provides required verification has been timely submitted if it is provided to the appropriate district office by the later of the following dates: 1. the deadline for filing the redetermination form; or 2. ten days following the date the verification is initially requested by the Department.

**The Appellant's previous recertification period was [REDACTED]18 through [REDACTED]/18. The Department did not complete recertification of assistance before [REDACTED]/18.**

**The Appellant's LTC assistance was discontinued effective [REDACTED]/19 for failure to complete the recertification process.**

5. UPM § 1545.40 (B) (1) (a) provides if eligibility has not been reestablished by the end of the redetermination period, the Department continues to provide assistance under the following conditions if it appears that the assistance unit will remain eligible. (3) when the assistance unit demonstrates good cause for failing to complete the redetermination process.

UPM § 1545.40 (B) (1) (b) provides if eligibility is continued, the assistance unit must complete the redetermination process by the end of the month following the redetermination month, unless circumstances beyond the units control continue to delay the process.

UPM § 1545.40 (B) (1) (c) provides eligibility may be continued, and the redetermination held pending, as long as: (1) circumstances beyond the control of the assistance unit delay completion of the redetermination process; and (2) the assistance unit appears to be eligible for assistance.

UPM § 1545.40 (B) (1) (d) provides good cause may include, but is not limited to the following hardships. (1) illness; (2) severe weather; (3) death in the immediate family; (4) other circumstances beyond the control of the assistance unit.

**The Appellant's AREP has not established good cause for failing to complete the recertification process due to circumstances beyond her control since the Appellant's AREP has access to and the ability to pursue her ██████████ Sears pension.**

6. UPM § 3525.05 (A) (2) provides at any review of eligibility, including reviews generated by reported changes and redeterminations and Quality Control reviews, members of the assistance unit must cooperate by: a. completing and signing any necessary review forms; and b. responding to a scheduled appointment for an interview; and c. reporting changes and verifying information as required.

UPM § 3525.05 (B) (2) provides the entire assistance unit is ineligible when a member of the assistance unit refuses to cooperate with the eligibility review process. a. Ineligibility continues until the individual who caused the penalty cooperates, or until another qualified member of the assistance unit cooperates in completing the review.

UPM § 3525.05 (C) provides good cause for noncompliance with the eligibility process. 1. circumstances beyond the assistance unit's control; 2. failure of a representative to act in the best interests of an incompetent or disabled assistance unit.

UPM § 3525.10 (A) provides applicants for or recipients of AFDC, AABD and MA must: 1. apply for or cooperate in applying for a potential benefit from any source other than SSI; and 2. cooperate in obtaining inaccessible income.

UPM § 3525.10 (B) (1) provides potential income refers to legal entitlement to a benefit. This does not include gain through individual effort. (2) Income to which the assistance unit may be entitled includes but is not limited to the following sources: f. **private pensions** or disability benefits.

UPM § 3525.10 (C) provides applicants or recipients must apply to the source within the time limit set by the Department or show good cause for not having done so.

UPM § 3525.10 (D) provides failure to comply with this requirement results in ineligibility of the entire assistance unit.

**The Appellant's AREP has not established good cause for failing to pursue potential income from the Appellant's pension benefit from Sears Holdings. The Appellant has access to and the ability to obtain her [REDACTED] pension.**

### **DISCUSSION**

Departmental policy requires that in order to continue assistance beyond the certification period, a redetermination form must be received and processed before the eligibility end date. In the present case, the Department has acknowledged that, due to a processing delay, the Appellant's redetermination was not initiated until [REDACTED] 2019. The fact that the Department processed the Appellant's redetermination four months after receipt benefited the Appellant, not the Department, by keeping the Appellant's medical assistance active through [REDACTED] 2019.

The Appellant's AREP has had the means and legal capacity since [REDACTED] 2016, the date she was appointed conservator, to select her [REDACTED] pension payout from Sears Holding. A good cause reason has not been shown for not submitting the requested information by the due date. Accordingly, the Department's action to discontinue the Appellant's LTC assistance is affirmed.

### **DECISION**

The Appellant's appeal is denied.

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Christopher Turner  
Hearing Officer

Cc: Tyler Nardine, Operations Manager Norwich  
Cheryl Stuart, Operations Manager Norwich  
Kenneth Smiley, DSS Willimantic

### **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, law, and 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, if 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.