

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

[REDACTED], 2019
Signature Confirmation

Client ID # [REDACTED]
Case # [REDACTED]
Request # 144849

NOTICE OF DECISION

PARTY

[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED], 2019, the Department of Social Services (the "Department") sent [REDACTED] (the "Applicant") a Notice of Action ("NOA") denying benefits under the Medicaid for Long Term Care program.

On [REDACTED], 2019, [REDACTED], (the "Appellant"), Power of Attorney for the Applicant, requested an administrative hearing to contest the Department's decision to deny such 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, 17-61 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], the Appellant, Power of Attorney for the Applicant, [REDACTED], who is unable to attend the hearing due to her institutionalization.

Noel Lord, Department's Representative

Angela Querette, Department's Representative, via telephone conference call

Shelley Starr, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the application for medical assistance for failing to provide information was correct.

FINDINGS OF FACT

1. On [REDACTED], 2018, the Applicant was admitted to [REDACTED] [REDACTED]. (Exhibit 3: W-1LTC received [REDACTED], 2018; Hearing Record)
2. The Applicant is [REDACTED] years old [REDACTED] and is a widow. (Exhibit 3: W-1 LTC Application; Hearing Summary)
3. On [REDACTED], 2018, the Department received a W-1 LTC application for Long Term Care Medicaid assistance, completed by the Applicant's Power of Attorney with the assistance of a social worker. (Exhibit 3: W-1LTC application received [REDACTED], 2018; Appellant's Testimony)
4. Between the period of [REDACTED] 2019, through [REDACTED] 2019, the Department sent the Appellant five (5) W-1348 Verification We Need forms, with a back and forth written communication between the Department and the Appellant. (Exhibit 4: W-1348LTC Verification We Need forms 1-5; Appellant's Testimony; Hearing Record)
5. On [REDACTED] 2019, the Department sent to the Appellant a W-1348 LTC Verification We Need form requesting [REDACTED] statements with checks from [REDACTED] 2013 to the present date. The form indicated that per letter from [REDACTED], in [REDACTED] 2011, the deceased spouse and client opened the account; attachment letter enclosed. The information was due [REDACTED], 2019. (Exhibit 5: W-1348LTC Verification We Need dated [REDACTED] 2019; Hearing Summary; Hearing Record)
6. The Department did not receive from the Appellant, any of the requested verification by the [REDACTED] 2019, designated due date. (Hearing Summary; Department's Testimony)
7. On [REDACTED], 2019, the Department sent the Appellant a Notice of Action notifying that the Husky C Long Term Care Medicaid was denied for failing to provide information to establish eligibility. (Hearing Summary; Exhibit 2: Notice of Action dated [REDACTED], 2019)
8. The Appellant advised at the hearing that he did not receive the W-1348 LTC Request #5 in the mail. He occasionally has problems with his mail,

however has not filed a complaint with the U.S. Post Office. (Appellant's Testimony; Hearing Record)

9. The Department has not received any returned mail by the U.S. Postal Service. (Department's Testimony; Hearing Record)
10. 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 [REDACTED] 2019, and is timely.

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the Medicaid program.
2. "The department's uniform policy manual is the equivalent of 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 Inocme Maintenance*, 214 Conn. 601, 573 A.2d 712 (1990)).
3. Uniform Policy Manual ("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.

UPM § 1015.05(C) states 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.

The Department correctly issued W-1348 Verification We Need requests notifying the Appellant what information is needed to determine the Applicant's eligibility.

4. UPM § 1505.35 C1 c(2) provides that a standard of promptness is established as the maximum time period for processing applications. For applicants for Medical Assistance on the basis of age; that standard is forty-five calendar days.

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: the client has good cause for not submitting verification

by the deadline, or the client has been granted a 10 day extension to submit verification which has not elapsed.

UPM § 1555.10 (B)(1)&(2) provides that assistance units may establish good cause for failing to provide required verification timely. Good Cause may include, but is not limited to illness; severe weather, death in the immediate family, other circumstances beyond the unit's control.

5. UPM § 1505.40 (B)(5)(a) provide that regardless of the standard of promptness, no eligibility determination is made when there is insufficient verification to determine eligibility when the Department has requested verification and 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 an additional 10 day extension 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)(1)(b)(1) provides that if the applicant failed to complete the application without good cause, cases are denied between the thirtieth day and the last day of the appropriate standard for processing the application.

The Department was correct when it denied the [REDACTED], 2018, application because it had not received one of the items listed based on the 5th W-1348 LTC request for information, by the [REDACTED] 2019, designated due date.

DISCUSSION

Based on the testimony and evidence, the Department was correct to deny the Medicaid application for failure to provide information to establish eligibility. The Applicant's Representative testified that he did not submit the requested verification by the due date because he did not receive the Department's W-1348 LTC # 5.

The Department conducted an ImPact search, and there is no record of having any returned U.S. mail. In addition, the W-1348 LTC request # 4 requested the same [REDACTED] asset information as stated on the W-1348 LTC request # 5. The Appellant, after receiving the W-1348LTC request # 4 and submitting some of the requested verification, should have been aware that outstanding information was still needed for the pending application.

On [REDACTED] 2019, the Department correctly issued a Notice of Action, denying the Medicaid long term care assistance for failing to provide the requested

verification. At the time of the hearing, the Appellant had not provided the outstanding verification. The Appellant is encouraged to reapply for assistance and provide the requested verification.

DECISION

The Appellant's appeal is **DENIED.**


Shelley Starr
Hearing Officer

Pc: Yecenia Acosta, DSS, Stamford
Angela Querette, DSS, Bridgeport

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.