

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 # 146863

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 benefits under the Husky C – Long Term Care Facility Residents Eligible Under Special Income Level (“Husky C”) effective ██████████ 2019.

On ██████████ 2019, ██████████ (“Conservator”) the Conservator of the Estate and Person for the Appellant requested an administrative hearing on behalf of the Appellant to contest the Department’s decision to deny the Appellant’s application for Husky C.

On ██████████ 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████, 2019.

On ██████████ 2019, the Conservator on behalf of the Appellant requested a continuance which OLCRAH granted.

On ██████████ 2019, the 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:

██████████, Conservator of the Person and Estate for the Appellant
Bryant Grimes, Department Representative
Kenneth Smiley, Department Host
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 for benefits under the Husky C program was correct.

FINDINGS OF FACT

1. In ██████████ 2018, ██████████ (the "nursing facility"), a long term care nursing facility, admitted the Appellant to their facility. (Conservator's Testimony and Exhibit 1: Application)
2. On ██████████, 2019, the Court of Probate, ██████████ appointed the Conservator as the Appellant's Conservator of the Person and the Estate. (Exhibit A: Court of Probate)
3. On ██████████ 2019, the Conservator on behalf of the Appellant submitted an application for Medicaid benefits under the Husky C program to the Department. The application lists the Appellant's mailing address the same as the Conservator's mailing address: ██████████, ██████████ ("mailing address"). (Exhibit 1: Application)
4. The Appellant is age ██████████ born on ██████████. (Exhibit 1: Application)
5. On ██████████ 2019, the Department issued the Conservator a W-1348LTC Verification We Need ("W-1348LTC") form addressed to the mailing address. The Department requested proof of income and assets. The Department listed the due date for the information as ██████████ 2019. The Department listed the date the Department must take action by as ██████████ 2019. The Department writes, "If you do not give us any required proof or if you do not ask us for more time by ██████████ 2019 then we may deny your application." (Exhibit 2: Verification We Need)
6. The Conservator receives mail at the mailing address. (Conservator's Testimony)

7. The Conservator did not receive the W-1348LTC form issued by the Department on [REDACTED] 2019. (Conservator's Testimony)
8. The Conservator made no contact with the Department since she filed the online application for Husky C on behalf of the Appellant. (Conservator's Testimony)
9. On [REDACTED] 2019, the Department denied the Appellant's application for Husky C effective [REDACTED] 2019 because the Conservator on behalf of the Appellant failed to send in the requested information necessary to determine eligibility. (Exhibit 3: Notice of Action, Exhibit 4: Case Notes, and Department Representative's Testimony)
10. On [REDACTED] 2019, the Department issued the Appellant a Notice of Action. The notice stated the Department determined the Appellant not eligible for Husky C effective [REDACTED] 2019 for the following reasons: "you did not return all of the required proofs by the date we asked and does not meet program requirements." (Exhibit 3: Notice of Action)
11. On [REDACTED] 2019, the Conservator on behalf of the Appellant reapplied for Husky C. (Hearing Record)
12. The issue 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. However, the hearing, which was originally scheduled for [REDACTED] 2019 was rescheduled for [REDACTED] 2019, at the request of the Appellant, which caused a [REDACTED]-day delay. Because this [REDACTED]-day delay resulted from the Appellant's request, this decision is not due until [REDACTED], 2020, and therefore timely.

CONCLUSIONS OF LAW

1. Section 17b-2(6) of the Connecticut General Statute 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. "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. Section 1500.01 of the Uniform Policy Manual (“UPM”) defines “the application process as all activity related to the exploration, investigation and disposition of an application beginning with the filing of an assistance request and ending with the disposition of the application.”

“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.” UPM § 1505

4. “An assistance unit may be represented in various aspects of the eligibility by a responsible individual who has been given prior authorization to act as the assistance unit’s representative.” UPM § 1525.05(A)

“An authorized representative must be designated in writing by one 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.” UPM § 1525.05(C)(2)

“The following individuals are qualified to request cash or medical assistance, be interviewed and, complete the application process on the behalf of others who they represent: a conservator, guardian or other court appointed fiduciary.” UPM § 1505.15(C)(3)

5. The Department correctly determined the Conservator as the Appellant’s authorized representative during the application process.
6. “Individuals who desire to obtain aid must file a formal request for assistance.” UPM § 1505.10(B)(1)

“All applicants are required to complete an application form, except as noted below in § 1505.10(A)(3).” UPM § 1505.10(A)

7. The Department correctly determined the Conservator on behalf of the Appellant completed an application for assistance.
8. “The date of application is the date a formal written request for assistance is filed with the Department in accordance with the rules established for the program for which application is made.” UPM § 1500.01

“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)

9. The Department correctly determined the date of application as [REDACTED] 2019.
10. "Office interviews are not required for AABD or MA applicants. The application process may be completed entirely through mail correspondence and telephone contact." UPM 1505.30(A)(3)
11. The Department correctly determined an application interview is not a condition of eligibility under the Husky C program.
12. "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 § 1015.10(A)

"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)

"All income must be verified as an eligibility requirement at the time of application, at each redetermination of eligibility, and whenever the income changes." UPM § 5099.05

"The assistance unit must verify its equity in counted assets." UPM § 4099.05(A)(1)

Department policy provides as follows:

The assistance unit must verify the following for the Department to evaluate each asset held by the assistance unit. This list is not necessarily all-inclusive.

1. The asset's legal owner, if there is a question of ownership, as described in 4010; and
2. The asset's status as either inaccessible, or excluded, if there is a question, as described in 4015 and 4020, respectively; and
3. The amount of equity the assistance unit has in the asset; and
4. The amount of equity in counted assets to be deemed available to the unit, as described in 4025.

UPM § 4099.30(A)

"If the unit does not verify its equity in counted assets, the unit is ineligible for assistance." UPM § 4099.05(A)(2)

13. The Department correctly issued the Conservator on behalf of the Appellant a W-1348LTC Verification We Need form requesting income

and asset information needed to determine eligibility under the Husky C program. The Department correctly mailed the W-1348LTC to the mailing address listed on the application for benefits by the Conservator.

14. “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.” UPM § 1010

15. “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 § 1010.05(A)(1)

“The verification of information pertinent to an eligibility determination or a calculation of benefits is provided by the assistance unit or obtained through the direct efforts of the Department.” UPM § 1540.10

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

16. Department policy provides as follows:

The penalty for failure to provide required verification depends upon the nature of the factor or circumstance for which verification is required:

If the eligibility of the assistance unit depends directly upon a factor or circumstance for which verification is required, failure to provide verification results in ineligibility for the assistance unit. Factors on which unit eligibility depends directly include, but are not limited to:

- a. Income amounts,
- b. Assets amounts.

UPM § 1540.05(D)(1)

17. “The following promptness standards are established as maximum time period for processing applications: forty-five calendar days for: AABD or MA applicants applying on the basis of age or blindness.” UPM § 1505.35(C)(1)(2)

“The first day of the processing period begins on the day following the date of application.” UPM § 1505.35(C)(2)

18. “The following provisions apply if the applicant failed to complete the application without good cause: If assistance cannot be granted: AFDC, AABD and MA cases are denied between the thirtieth day and the last day of the appropriate promptness standard for processing the application.” UPM § 1505.40(B)(1)(b)(1)

“The following provisions apply if the applicant failed to complete the application without good cause: The applicant’s failure to provide required verification by the processing date causes: one or more members of the assistance unit to be ineligible if the unverified circumstance is a condition of eligibility.” UPM § 1505.40(B)(1)(c)(1)

19. Departmental policy provides as follows:

The eligibility determination is delayed beyond the AFDC, AABD or MA processing standard if because of unusual circumstances beyond the applicant’s control, the application process incomplete and one of the following conditions exists:

1. Eligibility cannot be determined; or
2. Determining eligibility without the necessary information would cause the application to be denied.

UPM § 1505.40(B)(4)

20. The Conservator failed to establish good cause for failure to submit the requested verification.

21. On [REDACTED] 2019, the Department correctly denied the Appellant’s application for medical benefits under the Husky C program effective [REDACTED] 2019 because the Conservator on behalf of the Appellant failed to provide the Department with the requested information necessary to make a determination of eligibility. The Department correctly denied the application for Husky C between the 30th day and last day of the 45-day standard of promptness for processing applications; [REDACTED] 2019 is the 40th day of the processing standard.

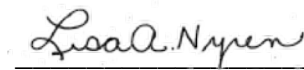
22. “The Department must send the assistance unit a notice regarding the Department’s determination of the unit’s initial eligibility, and, subject to conditions described in Section 1570, adequate notice before taking action to change the unit’s eligibility status or the amount of benefits.” UPM § 1015.10(C)

23. On [REDACTED] 2019, the Department correctly issued a notice of denial to the Appellant informing the Appellant the Department denied her

application for medical benefits under the Husky C program effective [REDACTED]
[REDACTED] 2019.

DECISION

The Appellant's appeal is denied.



Lisa A. Nyren
Fair Hearing Officer

CC: Tonya Cook-Beckford, DSS RO#42
Bryant Grimes, DSS RO #42

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.