

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

██████████  
Signature Confirmation

Client ID # ██████████  
Request # 139898

**NOTICE OF DECISION**

**PARTY**

██████████  
██████████  
██████████  
██████████

**PROCEDURAL BACKGROUND**

On ██████████, the Department of Social Services (the “Department”) sent ██████████ (the “Applicant”) a Notice of Action (“NOA”) denying benefits under the HUSKY C Medicaid for Home and Community Based Services.

On ██████████, the Applicant’s son and Power of Attorney, (“POA”), (the “Appellant”) requested an administrative hearing to contest the Department’s decision to deny such benefits.

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

On ██████████ 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:

██████████, the Applicant  
██████████ the Applicant’s son and POA, the Appellant  
Diane Wood, Department’s representative via telephone conference call  
Angella Querette, Eligibility Services Worker, DSS, Bridgeport  
Maureen Foley-Roy, Hearing Officer

## STATEMENT OF THE ISSUE

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

## FINDINGS OF FACT

1. The Applicant was present at the hearing but is not competent to assist in the proceedings or to assist with her Medicaid application. (Appellant's testimony)
2. In 2017, the Applicant was living in New York with her spouse. (Appellant's testimony)
3. In [REDACTED], at the suggestion of his aunt, the Appellant was added to his mother's checking account number [REDACTED]. (Appellant's testimony)
4. On [REDACTED], \$10,000 was debited from the Applicant's checking account # [REDACTED] in the form of a wire transfer. (Department's summary)
5. In the fall of [REDACTED], due to the Applicant's declining health and a deteriorating situation with her husband, the Applicant left New York and came to live with her son, the Appellant in Connecticut. (Appellant's testimony)
6. On [REDACTED], the Department received an application for Medicaid for home care assistance for the Applicant. The Appellant reported the following assets on the application: [REDACTED] Bank checking account ending in [REDACTED], a pooled trust fund, a life insurance policy and an automobile. (Exhibit 1: Application)
7. In reviewing the Applicant's transactions from her checking account [REDACTED], the Department discovered deposits from two additional [REDACTED] accounts, ending in # [REDACTED] and # [REDACTED]. (Department representative's testimony)
8. On [REDACTED], the Department sent a W-1348 LTC We Need Verification From You form ("W1348") to the Appellant. The form requested an extensive list of information with a due date of [REDACTED], 2018. The information requested included: bank statements from [REDACTED] 2013, [REDACTED] 2014, [REDACTED] of 2015 and all statements from [REDACTED] of 2016 forward for [REDACTED] bank accounts ending in 5675 and 6165, statements from [REDACTED] acct # [REDACTED] from [REDACTED] 2018 to current, information from pooled trust, proof of face value and cash value of life insurance, proof of discontinuance of benefits in New York, shelter

expenses for spouse living in community, completion of application page regarding annuities verification of sources of deposits and results of withdrawals listed on a transaction sheet and proof of any other assets held by Applicant and/or spouse. (Exhibit 2A: 1348 sent 1/18)

9. On [REDACTED], the Department sent a second W-1348 LTC We Need Verification From You form ("Request number 2") to the Appellant. The form listed information requested including: bank statements from [REDACTED] 2013, [REDACTED] 2014, [REDACTED] of 2015 and all statements from November of 2016 forward for [REDACTED] bank accounts ending in [REDACTED] and [REDACTED], pooled trust statements and proof of shelter expenses for her spouse living in the community, proof of face value and cash value of life insurance and proof of any other assets held by Applicant and/or spouse. The information was due by [REDACTED]. (Exhibit 2b: W1348 Request #2 dated [REDACTED])
10. The W1348 Verification We Need form sent on [REDACTED] also contained a list of transactions from the Applicant's [REDACTED] checking account ending in # [REDACTED] and requested verification of the source of specific deposits and the whereabouts of the funds that were withdrawn; including: a \$5800 deposit made on [REDACTED] 2017, a \$2000 deposit made on [REDACTED] 2017, a withdrawal of \$1566.65 also from [REDACTED] 2017, a \$10,000 wire transfer made from the account on [REDACTED], 2017, a \$2600 deposit made on [REDACTED], 2017, \$3.05 deposit from account #6462 on [REDACTED] 2018 and a \$1700 deposit made on [REDACTED], 2018. The information was due by [REDACTED]. (Exhibit 2b))
11. On [REDACTED], the Department sent a third W-1348 LTC We Need Verification From You form ("Request number 3") to the Appellant. The information requested included: bank statements from [REDACTED] 2013, [REDACTED] r 2014, [REDACTED] of 2015 and all statements from [REDACTED] of 2016 forward for [REDACTED] bank accounts ending in [REDACTED] and [REDACTED], demographic information for the Applicant's spouse and proof of his shelter expenses in the community and proof of any other assets held by Applicant and/or spouse. The form also requested verification of the same transactions that had been requested in Request #2. The information was due by [REDACTED]. (Exhibit 2c: W1348 Request #3 dated [REDACTED]/2019)
12. On [REDACTED], the Department sent a fourth W-1348 LTC We Need Verification From You form ("Request number 4") to the Appellant. The form requested the information requested included: bank statements from [REDACTED] 2013, [REDACTED] r 2014, [REDACTED] of 2015 and all statements from [REDACTED] of 2016 forward for [REDACTED] bank accounts ending in [REDACTED] and [REDACTED], last known address for the Applicant's spouse and proof of his shelter expenses in the community and proof of any other assets held by Applicant and/or spouse. The form also requested verification of the same

- transactions that had been requested in Request #'s 2 and 3. The information was due by [REDACTED]. (Exhibit 2d: W1348 Request #4 dated [REDACTED]/2019)
13. The Appellant did not request assistance from the Department in obtaining any of the outstanding information. (Appellant and Department representative's testimony)
  14. The Appellant did not go to the bank and request information on the transactions from his mother's checking account, even though his name was on the account. The Appellant did not request statements from the other [REDACTED] bank accounts. (Appellant's testimony)
  15. The Appellant tried to track down the Applicant's husband to obtain the requested information. He left him messages and went by his house on several occasions. (Appellant's testimony)
  16. On [REDACTED], the Appellant informed the Department that could not account for the requested transactions. Also, there were no statements provided from the two additional [REDACTED] bank accounts. The Appellant did not provide the Department with the last known address of the Applicant's spouse. (Exhibit 4: Case Notes)
  17. On [REDACTED], the Department denied the application for Medicaid for Home Care Services because the Appellant had not provided information that was required to determine eligibility. (Exhibit 5: Notice of Action dated [REDACTED])
  18. 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]. The final decision is due by [REDACTED], 2019, and is therefore 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 ("UPM") is the equivalent of a state regulation and, as such, carries the force of law." *Bucchere v Rowe*, 43 Conn Supp. 175 178 (194) (citing Conn. Gen. Stat. § 17b-10; Richard

v. Commissioner of Income Maintenance, 214 Conn. 601, 573 A.2d712(1990)).

3. UPM § 3029.05 A provides that there is a period established, subject to the conditions described in this chapter, during which institutionalized individuals are not eligible for certain Medicaid services when they or their spouses dispose of assets for less than fair market value on or after the look-back date specified in 3029.05 C. This period is called the penalty period, or period of ineligibility.
4. UPM § 3029.05 B1 provides that the policy contained in this chapter pertains to institutionalized individuals and to their spouses.
5. UPM § 3029.05 B2 An individual is considered institutionalized if he or she is receiving LTCF services; or services provided by a medical institution which are equivalent to those provided in a long-term care facility; or home and community-based services under a Medicaid waiver (cross references: 2540.64 and 2540.92).
6. UPM § 3029.05 C provides that the look-back date for transfers of assets is a date that is 60 months before the first date on which both the following conditions exist: the individual is institutionalized; and the individual is either applying for or receiving Medicaid.

**The Department was correct when it determined that it must review assets for the Applicant and her spouse for the 60 month period immediately preceding her application for Medicaid.**

7. 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 was correct when it issued four W1348-Verification We Need forms with listings of outstanding information needed to determine eligibility.**

8. 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 § 1505.40 B 5 a (1) and (2) 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 application because it had not received even one of the items listed on the 4th request for information by the due date. The Appellant told the Department that he could not provide the requested information regarding the transactions. But he also failed to provide information that was available to him, such as the requested bank statements and the address of the Applicant's spouse.**

### **DISCUSSION**

The Appellant was in the difficult position of attempting to obtain information to determine eligibility without the assistance of his mother, the Applicant, who does not have the ability to help. However, some of the information was available to the Appellant and he did not provide it to the Department on the four occasions that it was requested. Although he had power of attorney for his mother and was actually named on her bank account, he did not go to the bank to inquire on the other accounts or the questionable transactions. Per his testimony, his attempts to obtain the information were limited to his trying to get in touch with his mother's spouse. When he was not successful, he did not request assistance from the Department in obtaining the information. The Appellant testified that he went to the Applicant's spouse's home on several occasions but he did not provide the Department with the address as requested. The Department has an obligation to explore assets in determining eligibility and was correct in denying the applications when the requested information was not provided.

**DECISION**

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

*Maureen Foley-Roy*

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Maureen Foley-Roy,  
Hearing Officer

CC: Yecenia Acosta, Tim Latifi, Fred Presnick, DSS Operations Managers, R.O.  
#30, Bridgeport  
Diane Wood, Eligibility Services Specialist, DSS, Hartford  
Angela Querette, Eligibility Staff, 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.