

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

Client ID # ██████████
Request # 142791

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████, the Department of Social Services (the "Department") sent ██████████, (the "Appellant") a Notice of Action ("NOA") advising her that her Medicare Savings Program Qualified Medicare Beneficiaries ("QMB") benefits would close ██████████ because she did not meet the residency requirements and there were no eligible household members.

On ██████████ the Appellant requested an administrative hearing to contest the Department's determination to discontinue her Medicaid for Home Care Services 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 Appellant
██████████, friend and witness for the Appellant
Ken Smiley, Hearing Liaison, Willimantic Regional Office
Amanda Guillemette, Hearing Liaison, Norwich Regional Office
Maureen Foley-Roy, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly discontinued the Appellant's Medicare Savings Program QMB benefits.

FINDINGS OF FACT

1. The Appellant is a 73 year old individual who was receiving SNAP benefits, Medicaid for HomeCare Services and Medicare Savings Program benefits through the Department. (Exhibit 2: Notice of Action and Appellant's testimony)
2. On [REDACTED], the Appellant went to stay with her daughter in Florida because her home had been foreclosed on and she was homeless. (Appellant's testimony)
3. The Appellant put her belongings in storage in Connecticut, arranged for her mail to be forwarded to a friend's home in Connecticut and advised her friends that she would return in July. She did not have a round trip ticket. (Appellant and Appellant's friend's testimony)
4. The Appellant did not receive any assistance in Florida, she was cared for by her daughter and her grandchildren. (Appellant's testimony)
5. On [REDACTED], the Department received an email from an unknown source that reported that the Appellant was staying with family in Florida and was hoping to return to Connecticut in July. The Department tried unsuccessfully to contact the Appellant. (Exhibit 1: Case Notes)
6. On [REDACTED] the Department received an email from the Alternate Care Unit reporting that the Appellant was currently residing in Florida with family. (Exhibit 1)
7. On [REDACTED] the Department discontinued the Appellant's QMB benefits because she did not meet the residency requirement and there were no eligible members in the home. (Exhibit 2: Notice of Action)
8. In [REDACTED], the Appellant returned to Connecticut and is staying at a campground. She has been advised that she can only stay at the campground for 2 weeks. (Appellant's testimony)
9. 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]. Therefore, this decision was due not later than [REDACTED] and is timely.

CONCLUSIONS OF LAW

1. Section 17b-2(6) of the Connecticut General Statutes 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 ("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. "In order to qualify for MA, an individual must meet the conditions of at least one coverage group." UPM § 2540.01 A
4. "Unless otherwise stated in particular coverage group requirements, all individuals must meet the MA technical and procedural requirements to be eligible for Medicaid." UPM § 2540.01 D
5. Qualified Medicare Beneficiaries includes individuals who are entitled to hospital insurance benefits under part A of the Title XVIII of the Social Security Act and have income and assets equal to or less than the limits. UPM § 2540.94 A 1 a and b
6. "Residency in the state is a technical eligibility requirement for all programs." UPM § 3010
7. "The residency requirement for Medical Assistance is met by living in the state and in some instances meeting other conditions. These other conditions are based on whether or not the individual is in an institution and whether or not the individual is capable of indicating intent to remain in the state." UPM § 3010.10 A
8. "A temporary absence does not constitute abandonment of residency or interrupt continuity if intent to return is indicated once the purpose of the absence has been accomplished." UPM § 3010.35
9. "There is no specific time limit for temporary absence but that residence is considered abandoned if another state grants Medicaid." UPM § 3010.35 B

10. "The assistance unit must report to the Department, in an accurate and timely manner as defined by the Department, any changes which may affect the unit's eligibility or amount of benefits." UPM § 1010.05 B1
11. "Assistance units, with the exception of FS monthly reporting assistance units, are required to report changes to the Department within ten calendar days of the date of the change." UPM § 1555.05 A 1
12. The Department was correct when it discontinued the Appellant's benefits on [REDACTED] because the Appellant was residing in another state and she had not informed the Department of her whereabouts, her reasons for leaving the state or her intention to return.

DISCUSSION

The Medicaid policy allows for eligibility during temporary absences from the state if there is an intention to return once the purpose of the absence has been accomplished. All of the Appellant's testimony at the hearing (and her hearing request) indicated that the Appellant was out of the state temporarily while she worked on obtaining a permanent living arrangement. However, she failed to communicate this to the Department. The Department learned that she had left the state. They made unsuccessful attempts to contact her. The Appellant never contacted the Department to report that she had left the state, her reasons for doing so and her intention to return. Under those circumstances, the Department was correct when it discontinued her benefits.

DECISION

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



Maureen Foley-Roy,
Hearing Officer

CC: Tyler Nardine, Cheryl Stuart Operations Managers
Amanda Guillemette, DSS Hearing Liaison, Norwich
Ken 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 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.