

STATE OF CONNECTICUT  
DEPARTMENT OF SOCIAL SERVICES  
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS  
25 SIGOURNEY STREET  
HARTFORD, CT 06106-5033

Case ID# [REDACTED]  
Client ID # [REDACTED]  
Request # 154435

[REDACTED], 2020  
Signature Confirmation

NOTICE OF DECISION

PARTY

[REDACTED] [REDACTED]  
[REDACTED] [REDACTED]  
[REDACTED] [REDACTED]  
[REDACTED] [REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED] 2020, the Department of Social Services (the "Department") sent [REDACTED] (the "Appellant") a Notice of Action ("NOA") denying the Appellant's Medicaid application for long term care ("LTC") benefits.

On [REDACTED] 2020, the Appellant requested an administrative hearing to contest the Department's decision to deny such benefits.

On [REDACTED] 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice scheduling the administrative hearing for [REDACTED], 2020.

On [REDACTED] 2020, the Appellant requested a re-schedule of the hearing, which was granted.

On [REDACTED] 2020, OLCRAH issued a notice scheduling the administrative hearing for [REDACTED], 2020.

On [REDACTED], 2020, [REDACTED], the Appellant requested a re-schedule of the hearing, which was granted.

On [REDACTED] 2020, OLCRAH issued a notice scheduling the administrative hearing for [REDACTED], 2020.

On [REDACTED] 2020, the Appellant requested a re-schedule of the hearing, which was granted.

On [REDACTED], 2020, OLCRAH issued a notice scheduling the administrative hearing for [REDACTED], 2020.

On [REDACTED] 2020, 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:

Attorney [REDACTED] - Conservator of Person and Estate for [REDACTED]  
[REDACTED], Conservator's assistant, Appellant Representatives  
Paula Wilczynski, Department Representative  
Almelinda McLeod, Hearing Officer

[REDACTED], Appellant- was not present due to his disability

The hearing record was held open for the submission of additional evidence. On [REDACTED], 2020 the hearing record was closed.

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether the Department's decision to deny the Appellant's Medicaid application for LTC benefits due to failure to submit information needed to establish eligibility was correct.

### **FINDINGS OF FACT**

1. On [REDACTED], 2014, Attorney [REDACTED] of the [REDACTED] Law Offices became the Appellant's conservator of person. (Exhibit 2)
2. On [REDACTED], 2014, Attorney [REDACTED] of the [REDACTED] Law Offices became the Appellant's conservator of Estate. (Exhibit 2)
3. On [REDACTED] [REDACTED], 2019, the conservator submitted a Medicaid application for Long Term care on behalf of the Appellant. (Exhibit 1)
4. On [REDACTED] 2019, the Department issued a W-1348 requesting verifications needed to establish Medicaid eligibility. The due date for the verifications was [REDACTED], 2020. (Exhibit 3, Request #1)
5. On [REDACTED] [REDACTED], 2020, the Department, after receiving partial information, issued 2nd W-1348 requesting outstanding verifications

for the determination of Medicaid eligibility. The due date was [REDACTED], 2020. (Exhibit 4, Request #2)

6. On [REDACTED] 2020, the Department issued a 3<sup>rd</sup> W-1348 for outstanding verifications after receiving partial verifications. The due date was [REDACTED], 2020. ( Exhibit 5, Request #3 and Exhibit 10, Case notes)
7. On [REDACTED], 2020, the Department issued a 4<sup>th</sup> W-1348 for outstanding verifications after receiving partial verifications. The due date was [REDACTED] 2020. (Exhibit 6, Request #4)
8. On [REDACTED] 2020, the Department did not receive any verification or any communication requesting help or more time from the Appellant's conservator by the end of the business day. (Department testimony)
9. On [REDACTED] 2020, the Department issued a NOA denying the Appellant's Medicaid application for Long Term care effective [REDACTED] 2019 because "You did not return all of the required proofs by the date we asked" and "does not meet program requirements". (Exhibit 7, NOA)
10. The conservator acknowledged they missed the date; he was under the impression the due date as [REDACTED] 2020 and not [REDACTED] 2020. (Conservative's testimony)
11. The issuance of this decision under Connecticut General Statutes 17b-61 (a) which requires that a decision be issued within 90 days of the request for an administrative hearing has been extended to "not later than 120 days " after a request for a fair hearing pursuant to Section 17b-60 by order of Department of Social Services Commissioner dated April 13, 2020. The Appellant requested an administrative hearing on [REDACTED], 2020; however, the hearing record, which had been anticipated to close on [REDACTED] 2020, did not close due to a request for a re-schedule and subsequent re-schedules at the Appellant's Conservator's request causing a delay of 82 days. This final decision is not due until [REDACTED], 2020, and is therefore timely.

### **CONCLUSIONS OF LAW**

1. Section 17b-2 and § 17b-260 of the Connecticut General Statutes, authorizes the Department of Social Services to administer the Medicaid program pursuant to Title XIX of the Social Security Act.

2. 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 that the Department requires to determine eligibility and calculate the amount of benefits.

UPM § 1015.10 (A) provides that 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.

**The Department correctly sent the Appellant more than one W-1348 Application Verification Requirements lists requesting information needed to establish eligibility.**

3. UPM § 1505.35 (C) provides that the following promptness standards be established as maximum times for processing applications: forty-five calendar days for AABD or MA applicants applying based on age or blindness.
4. UPM 1505.35 (D) (3) provides that the processing standards are not used as a waiting period for granting assistance. Applications are processed with reasonable promptness as soon as the Department is able to make an eligibility determination.
5. 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: a. the client has good cause for not submitting verification by the deadline, or b. the client has been granted a 10 day extension to submit verification which has not elapsed.
6. **The hearing record shows that Department correctly delayed the application by issuing the 4th W-1348 on [REDACTED], 2020 thus granting a ten day extension to expire on [REDACTED] 2020.**
7. **The hearing record shows that Appellant’s conservator did not establish good cause with the Department in order to further delay the determination of eligibility.**
8. **The hearing record shows that the Department did not grant additional 10 day extensions beyond [REDACTED] 2020.**
9. UPM § 1505.40 (B) (4) (a) provides that 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 is 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.

10. UPM § 1505.40 (B) (4) (b) (1) (2) provides that if the application is delayed, the Department continues to process the application until the application is complete; or good cause no longer exists.

**The hearing record shows that the Appellant did not request help or additional time to submit the requested verifications due to circumstances beyond his control.**

11. UPM § 1505.40(B)(5)(a) provides that for delays due to insufficient verification, regardless of the standard of promptness, no eligibility determination is made when there is insufficient verification to determine eligibility when the following has occurred:

1. the Department has requested verification; and
2. 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.

12. UPM § 1505.40(B)(5)(b) provides that additional 10 day extensions 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.

13. UPM 1505.40 (B) (3) (a) (1) provides that if subsequent to an administrative delay, the applicant becomes responsible for not completing the Medical application process and the Department determines eligibility without further delay.

14. UPM 1505.40 (B) (1) (d) (1) provides that verification received after the date that an incomplete application is processed is used only with respect to future case actions.

**15. The Appellant failed to submit at least one item of verification within the 10 day extension period that expired on [REDACTED], 2020.**

**16. The Department correctly determined that the new verification submitted after the [REDACTED] 2020 due date is to be used for future application.**

**17. The Department correctly denied the Appellant's application for failure to submit information needed to establish eligibility since requested information was not returned by the due date.**

### **DISCUSSION**

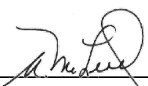
Regulation requires that an application must remain pending as long as the Appellant shows good cause for not providing at least one requested item before the given due date.

In this case, the hearing record shows that the conservator did not make the Department aware of any circumstances that would have prevented him from submitting the required verifications timely on behalf of the Appellant. There was no extension of time requested to submit the required verifications. The conservator testified that his other responsibilities to other patients in nursing homes where he was issuing DNR's and DNI's in the beginning of [REDACTED] 2020 during the COVID 19 pandemic was very time consuming and as a result he missed the [REDACTED] 2020 deadline.

After reviewing the evidence and testimony presented, the Department's action to deny the Appellant's request for LTC assistance is upheld. The Department was correct to deny the Appellant's application for failure to provide information.

### **DECISION**

The Appellant's appeal is DENIED.

  
\_\_\_\_\_  
Almelinda McLeod  
Hearing Officer

CC: Brian Sexton, SSOM Middletown  
Paula Wilczynski, LTSS Unit, New Haven Regional Office

### **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 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, 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 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.