

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

██████████, 2020
Signature Confirmation

Client ID # ██████████
Case ID # ██████████
Request # 157428

NOTICE OF DECISION

PARTY

██████████
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PROCEDURAL BACKGROUND

On ██████████ 2020, the Department of Social Services (the "Department") sent ██████████, (the "Applicant") and her conservator, ██████████ ("the Appellant") a Notice of Action ("NOA") denying the application for Medicaid Long Term Care Assistance program for failure to provide information.

On ██████████ 2020, the Appellant requested an administrative hearing to contest the Department's decision to deny the Applicant's application for Medicaid.

On ██████████, 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████, 2020.

On ██████████, 2020, the Appellant requested a reschedule of the administrative hearing.

On ██████████ 2020, OLCRAH issued a notice scheduling the administrative hearing for ██████████, 2020.

On ██████████, 2020, 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 by telephone

The following individuals participated in the hearing:

██████████, Appellant, Applicant's Conservator
Paula Wilczynski, Department's Representative
Marci Ostroski, Hearing Officer

The Applicant was not present at the administrative hearing due to her institutionalization at a long term care facility.

The hearing record remained open for the submission of additional evidence. The Department provided exhibits and on ██████████, 2020, the hearing record closed.

STATEMENT OF THE ISSUE

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

FINDINGS OF FACT

1. On ██████████ 2019, the Applicant was admitted to ██████████ skilled nursing facility ('the facility') for hospice long term care. (Ex. 1: W1LTC)
2. The Applicant is married. Her spouse is also institutionalized and has a dementia diagnosis. (Appellant's testimony)
3. On ██████████ 2020, the Appellant was named the Applicant's temporary limited conservator by the probate court for the purpose of filing a Medicaid application on behalf of the Applicant. (Appellant's testimony)
4. On ██████████, 2020, the Department received a W1LTC application for Long Term Care Medicaid assistance for the Applicant which listed the Appellant as the Applicant's conservator. The application was not signed and did not reflect any asset or income information. (Department's testimony; Ex. 1: W1LTC; Ex. 2: Case Notes)
5. On ██████████ 2020, the Department contacted the Appellant by telephone and informed him that a new completed, signed W1LTC must be submitted. (Ex. 2: Case Notes)
6. On ██████████ 2020, the Department also sent the Appellant, and the Applicant's Authorized Representative at the facility, a W-1348LTC We Need Verification From You, to the address provided on the W1LTC,

- requesting information needed to determine eligibility. The form requested the Applicant's: Medicare and Social Security numbers, the conservator document, a completed signed W1LTC application, verification of Applicant's and spouse's gross monthly income, spouses' date of birth and social security number, verification of assets including bank accounts, life insurance and burial contracts, copies of medical insurance cards and verification of premiums. The due date for the requested information was [REDACTED], 2020. (Ex. 2: Case Notes; Ex. A: W1348LTC)
7. The Appellant did not receive the 1348LTC sent to his office address but obtained the list of requested information from the copy sent to the facility. (Appellant's testimony)
 8. On [REDACTED] 2020 the Department determined that it had not received any of the requested verifications by the deadline of [REDACTED], 2020. The Department contacted the Appellant by phone to inquire on the verifications. The Appellant informed the Department that he was unable to obtain any of the requested information. The Appellant did not request an extension of time to obtain information nor did he request assistance from the Department in obtaining the requested information. (Ex. 2: Case Notes; Department's testimony, Appellant's testimony)
 9. On [REDACTED] 2020, the Department denied the Appellant's Long Term Care Medicaid Application for the reason, "You did not return all of the required proofs by the date we asked; and does not meet program requirements". (Ex. B: Notice of Action dated [REDACTED]/20)
 10. The Appellant obtained verifications and scanned them to the Department. On [REDACTED], 2020, the Department received the submission from the Appellant with the conservator documents, bank statements and the W1LTC form. (Department's testimony, Appellant's testimony)
 11. 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] 2020. This decision, therefore, was due no later than [REDACTED], 2020. The hearing, however, which was originally scheduled for [REDACTED], 2020, was rescheduled for [REDACTED], 2020, at the request of the Appellant, which caused a 22-day delay. Because this 22-day delay resulted from the Appellant's request, this decision was not due until [REDACTED] 2020, and is therefore timely. (Hearing Record)

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. “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 (B)(1) provides that the policy contained in this chapter pertains to institutionalized individuals and to their spouses.
5. UPM § 3029.05 (B)(2) 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.
7. The Department was correct when it determined that it must review assets for the Applicant for the 60 month period immediately preceding her application for Medicaid.
8. 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.
9. 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.
10. The Department correctly sent the Appellant an application requirements list to the address he provided requesting information needed to establish eligibility.

11. UPM § 3525.05(A)(c) provides in part for cooperation in the eligibility process that Applicants are responsible for cooperating with the Department in completing the application process by: providing and verifying information as required.
12. UPM 1540.10(A) provides; The assistance unit bears the primary responsibility for providing evidence to corroborate its declarations.
13. 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.
14. 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
15. 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.
16. The Appellant failed to submit at least one item of verification by the due date.
17. The Department correctly denied the Appellant's application for failure to submit information needed to establish eligibility.

DISCUSSION

After reviewing the evidence and testimony presented, the Department's action to deny the Appellant's request for Medicaid is upheld. Departmental regulations are clear that the Applicant bears the primary responsibility to provide the Department with the verifications necessary to determine eligibility.

The Appellant failed to provide any of the requested verifications to the Department before the deadline. The Appellant explained his difficulties in obtaining the information requested as he was newly appointed as a limited Conservator for the Applicant and had incomplete information regarding her circumstances. While many of the verifications requested may have been difficult to obtain, the Appellant

did have the means to provide some information, namely the conservator appointment paperwork and a completed signed application form, to the Department in order to continue the application process.

The Department contacted the Appellant by phone and mail regarding the verifications. The Appellant, however, did not request any assistance from the Department in obtaining any of the information requested and did not request any extensions of time on providing that information. The Appellant is encouraged to pursue the reapplication on behalf of the Applicant with the information he has since received.

DECISION

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

Marci Ostroski
Marci Ostroski
Hearing Officer

CC: Lisa Wells, Rachel Anderson, Cheryl Stuart, Social Services Operations Managers, New Haven, RO
Paula Wilczynski, Fair Hearing Liaison, New Haven, RO

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 06105-3725.

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.