

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly denied the Appellant's application for Long Term Care Medicaid benefits.

FINDINGS OF FACT

1. On [REDACTED], 2020, the Appellant was admitted to [REDACTED] [REDACTED] (the "facility"). (Hearing Summary)
2. On [REDACTED], 2020, the Appellant received long term care approval. (Hearing Summary, Exhibit 2: Ascend Connecticut Data Application)
3. On [REDACTED] 2020, the Appellant died. (Hearing Summary)
4. In [REDACTED] 2020, the Appellant's spouse completed and signed the Application for Long term care Medicaid for the Appellant with the assistance of [REDACTED] [REDACTED] from [REDACTED]. (Appellant's testimony, Exhibit 3: W-1LTC, Long – Term Care Application, page 3)
5. The Appellant's spouse and her representative are requesting Medicaid retroactive for [REDACTED] 2020 only. (Appellant's testimony)
6. On [REDACTED], 2020, the Appellant's Attorney mailed the Appellant's application to the Department's New Haven Regional Office with UPS tracking number ending in [REDACTED]. (Appellant's representative's testimony, Appellant's exhibit A: [REDACTED] CT post office receipt, [REDACTED]/2020)
7. On [REDACTED] 2020, the Post Office delivered the Application to the front desk / reception area or mail room at the New Haven Office. (Appellant's testimony, Ex A: UPS tracking for number ending in [REDACTED])
8. On [REDACTED] 2020, the Department date stamped the Appellant's application for Long Term Care Medicaid with an application received date of [REDACTED] 2020. (Exhibit 3: Application)
9. On [REDACTED] 2020, the Department sent the Appellant a Notice of Action. The Notice stated, "No eligible members, We have received information that the person listed has died". (Exhibit 4: Notice of Action, [REDACTED] 2020)
10. The Department is able to determine Medicaid eligibility for the three months prior to the application month. (Department's testimony)

11. The Appellant's representative's testimony is credible that mail received on [REDACTED], 2020, at the Department's New Haven office, with postal tracking number ending in # [REDACTED], was the Appellant's application. (Hearing Record)
12. 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. Therefore, this decision is due not later than [REDACTED] 2020. However, due to the public health emergency, the governor's executive order 7M, dated [REDACTED] 2020 extends the time frame a decision must be reached from 90 days of request for a fair hearing to 120 days. Therefore, this decision is due not later than [REDACTED] 2021 and is timely.

CONCLUSIONS OF LAW

1. Connecticut General Statutes §17b-2 provides in part that the Commissioner is authorized to administer 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. "For AFDC, AABD and MA applications, except for the Medicaid coverage groups noted below in 1510 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." Uniform Policy Manual ("UPM") 1505.10(D)(1)
4. UPM § 1560.10 discusses Medicaid beginning dates of assistance and provides that the beginning date of assistance for Medicaid may be one of the following:
 - A. The first day of the first, second or third month immediately preceding the month in which the Department receives a signed application when all non-procedural eligibility requirements are met and covered medical services are received at any time during that particular month; or
 - B. The first day of the month of application when all non-procedural eligibility requirements are met during that month; or
 - C. The actual date in a spenddown period when all non-procedural eligibility requirements are met. For the determination of income eligibility in spend-down, refer to Income Eligibility Section 5520; or
 - D. The first of the calendar month following the month in which an individual is determined eligible when granted assistance as a Qualified Medicare Beneficiary (Cross Reference: 2540.94). The month of eligibility determination is considered to be the month that the Department receives

all information and verification necessary to reach a decision regarding eligibility.

The Department incorrectly determined the Appellant's application date as [REDACTED], 2020. The correct Application date is [REDACTED], 2020, the date the application was received at the Department's New Haven Regional Office.


The Department incorrectly denied the Appellant's application for retroactive Long-Term Care Medicaid coverage for [REDACTED] 2020 because it incorrectly determined an application month of [REDACTED] 2020.

DECISION

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

ORDER

- 1. The Department will reopen the Appellant's application for Long Term Care Medicaid with an application date of [REDACTED], 2020 in order to determine retroactive Medicaid coverage for [REDACTED] 2020**
- 2. Compliance with this order is due to the undersigned hearing officer by [REDACTED] 2021 and will consist of proof the application has been reopened.**


Scott Zuckerman
Hearing Officer

Cc: Cheryl Stuart, Operations Manager, DSS, Norwich Regional Office
Mario Ponzio, Fair Hearing Liaison, DSS, 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 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.