

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

██████████ 2021
SIGNATURE CONFIRMATION

CASE # ██████████
CLIENT# ██████████
REQUEST# ██████████

NOTICE OF DECISION

PARTY

██████████
██████████
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PROCEDURAL BACKGROUND

On ██████████ 2021, the Department of Social Services (the “Department”) sent ██████████ (the “Appellant”), a Notice of Action (“NOA”) denying her application for Husky C L01 Long Term Care Facility Residents Medicaid benefits due to failure to provide information.

On ██████████ 2021, the Appellant’s conservator requested an administrative hearing to contest the denial of the Appellant’s application for Husky C L01 Long Term Care Facility Residents Medicaid benefits due to failure to provide information.

On ██████████ 2021, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2021.

On ██████████ 2021, OLCRAH issued a notice rescheduling the administrative hearing for ██████████ 2021.

On ██████████ 2021, OLCRAH issued a notice rescheduling the administrative hearing for ██████████ 2021.

On ██████████, 2021, OLCRAH issued a notice rescheduling the administrative hearing for ██████████ 2021.

On [REDACTED] 2021, OLCRAH issued a notice rescheduling the administrative hearing for [REDACTED] 2021.

On [REDACTED] 2021, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-189 inclusive, of the Connecticut General Statutes, OLCRAH held a telephonic administrative hearing. The following individuals participated in the hearing:

Appellant's Conservator, [REDACTED]
Counsel for Windsor Rehab, [REDACTED]
Department's Representative, Michelina Zogby
Hearing Officer, Joshua Couillard

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly denied the Appellant's application for Husky C L01 Long Term Care Facility Residents Medicaid benefits due to failure to provide information.

FINDINGS OF FACT

1. The Appellant is 74-years-old [DOB: [REDACTED], 1946]. (Exhibit 2: Online Application, Conservator's Testimony)
2. On [REDACTED] 2020, [REDACTED] was appointed as the Appellant's conservator. The State of CT Probate Court found that the Appellant, "has a mental, emotional or physical condition that results in the respondent being unable to receive and evaluate information." Furthermore, the court found that the Appellant, "is incapable of managing financial affairs and caring for herself due to progressive decline in care." (Exhibit E: Appointment of Conservator Notice)
3. Prior to admission to a Long Term Care Facility, the Appellant was a patient at [REDACTED] (Exhibit A: Letter from [REDACTED])
4. [REDACTED] was hired as a contractor through [REDACTED] to file the Medicaid application for the Appellant while the Appellant was still in the hospital. ([REDACTED] [REDACTED] Testimony)
5. On [REDACTED], 2020, [REDACTED] submitted an online application on behalf of the Appellant requesting L01 Long Term Care Facility benefits. [REDACTED] was listed as the Authorized Representative ("AREP") for the Appellant. [REDACTED] was not listed as an AREP on the application. (Exhibit 2, Department's Testimony)
6. On [REDACTED] 2020, the Appellant was admitted to [REDACTED] [REDACTED]. (Exhibit 5: Assessment Pro Admission Notification, Department's Testimony, Exhibit A).

7. On [REDACTED] 2020, the Department issued a W-1348LTC Verification We Need form requesting completion of sections I-N of the application form, completion of form W-1685, bank statements for the Appellant's [REDACTED] account, proof of all life insurance policies, completion of forms W-1J and W-1540, a copy of all funeral contracts, verification of any other assets held by the Appellant, proof of the Appellant's gross pension amount for 2020, proof of any other monthly income, and verification of how assets were spent to meet the \$1,600 asset limit. These verifications were due back to the Department by [REDACTED] 2020. (Exhibit 3: W-1348LTC Verification We Need Form)
8. Copies of the W-1348LTC Verification We Need form were sent to [REDACTED] at [REDACTED] and the Appellant's community residential address at [REDACTED]. (Exhibit 3, Department's Testimony)
9. On [REDACTED] 2020, the Appellant's daughter submitted a letter to the State of CT Probate Court requesting that [REDACTED] be removed as conservator of the Appellant due to [REDACTED] not paying the Appellant's bills. (Exhibit C: Letter to Probate Court)
10. On [REDACTED], 2020, a representative ([REDACTED]) from [REDACTED] contacted the Department regarding the status of the application. A verbal extension of 10 days was given to submit the requested verifications. The verifications were now due by [REDACTED] 2020. (Exhibit 1: Case Notes, Department's Testimony)
11. On [REDACTED] 2020, the W-1348LTC Verification We Need form was received by the Department as return mail. It was noted that the address on the return mail was not that of [REDACTED]. (Exhibit 1, Department's Testimony)
12. None of the requested verifications were ever received. (Exhibit 1, Department's Testimony)
13. On [REDACTED] 2021, the Department issued a NOA to the Appellant denying her application for L01 Long Term Care Facility benefits due to failure to provide the requested verifications. This notice was sent to [REDACTED]. (Exhibit 4: NOA)
14. On [REDACTED] 2021, the State of CT Probate Court removed [REDACTED] as the Appellant's conservator and appointed [REDACTED] to be the Appellant's conservator. (Exhibit F: Fiduciary Probate Certificate of Conservatorship)

CONCLUSIONS OF LAW

1. “*Programs administered by the Department of Social Services.* 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.” Connecticut General Statutes (Conn. Gen. Stat.) § 17b-2 (6)
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, 177 (1994) (citing Conn. Gen. Stat. 17-3f(c) [now 17b-10]; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A. 2d 712(1990))
3. “*Authorized Representatives.* An authorized representative must be designated in writing by one of the following individuals: in the AABD and MA programs, by the applicant, or if the applicant is a child, incompetent or incapacitated, by the parent, custodian, or court appointed fiduciary.” UPM § 1525.05 (C)(2)
4. “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.” UPM § 1015.10(A)

The Department correctly issued a W-1348LTC Verification We Need form to the Appellant’s AREP, [REDACTED], on [REDACTED] 2020.

5. “*Application Process.* Applicants are responsible for cooperating with the Department in completing the application process by: fully completing and signing the application form; and responding to a scheduled appointment for an interview; and providing and verifying information as required.” UPM § 3525.05(A)(1)
6. “*Supplying Information.* 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 § 1010.05(A)(1)
7. “*Delays Due to Insufficient Verification (AFDC, AABD, MA Only).* 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. 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.” UPM § 1505.40(B)(5)

The Appellant's AREP failed to provide at least one item of requested verification, however, the Department still allowed for an extension based off the request of the AREP.

8. *"Noncompliance with Application Process.* An application is denied when an applicant refuses to cooperate with the Department. It must be clearly shown that the applicant failed to take the necessary steps to complete the application process without good cause before the application is denied for this reason." UPM § 3525.05(B)(1)
9. *"Good Cause for Noncompliance – AFDC, AABD, MA.* Penalties for noncooperation with the application and review processes are not imposed under the following conditions, which are considered good cause for noncompliance: 1. circumstances beyond the assistance unit's control; 2. failure of a representative to act in the best interests of an incompetent or disabled assistance unit." UPM § 3525.05(C)

The Department correctly denied the Appellant's application as good cause could not be established.

DISCUSSION

The Department correctly denied the Appellant's application for Husky C L01 Long Term Care Facility Residents Medicaid benefits as verifications were not returned and good cause was not met.

Despite the Appellant's AREP (██████████) requesting an extension to submit verifications, they failed to submit any of the requested documentation.

The Department correctly issued the W-1348LTC form directly to ██████████ and the Appellant's home address, which were the only addresses listed on the application. The Department was never made aware that ██████████ was the Appellant's conservator.

Though the current conservator provided evidence that ██████████ failed to act in the best interests of the Appellant, the Department cannot be found at fault as they had no knowledge of ██████████ role as conservator. Due to this finding, good cause could not be established.

DECISION

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

Joshua Couillard

Joshua Couillard
Fair Hearing Officer

**CC: Hartford Regional Office Operations Manager, Musa Mohamud
Hartford Regional Office Operations Manager, Judy Williams
Hartford Regional Office Operations Manager, Jessica Carroll
Hartford Regional Office Fair Hearings Supervisor, Jay Bartolomei
Hartford Regional Office Fair Hearings Liaison, Michelina Zogby**

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, 165 Capitol Avenue, 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.