

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

■■■■ 2021
Signature Confirmation

Client ID ■■■■
Case ID ■■■■
Request # 177112

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 benefits under the Husky C – Long Term Care Facility Residents – Spend-down ("Husky C") effective ■■■■ 2021.

On ■■■■ 2021, ■■■■ ("POA"), the Appellant's Power of Attorney requested an administrative hearing on behalf of the Appellant to contest the Department's decision to deny the Appellant's application for Husky C.

On ■■■■ 2021, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ■■■■ 2021 at 9:00 am at the local regional office.

On ■■■■ 2021, the OLCRAH issued a corrected notice scheduling the administrative hearing for ■■■■ 2021 via teleconference at 10:00 am.

On ■■■■ 2021, the POA on behalf of the Appellant requested a continuance which OLCRAH granted.

On ■■■■ 2021, the OLCRAH issued a notice scheduling the administrative hearing for ■■■■ 2021.

On [REDACTED] [REDACTED] 2021, 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.

The following individuals called in for the administrative hearing:

[REDACTED] [REDACTED] Power of Attorney for the Appellant
 [REDACTED] [REDACTED] Witness for the Appellant, Financial Assistance, [REDACTED] [REDACTED]
 Shayla Streater, Department Representative
 Samantha Stone, Observer for the Department
 Lisa Nyren, Fair Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's [REDACTED] [REDACTED] 2021 decision to deny the Appellant's application for medical benefits under the Husky C program effective [REDACTED] [REDACTED] 2021 was correct.

FINDINGS OF FACT

1. On [REDACTED] [REDACTED] 2021, [REDACTED] [REDACTED] [REDACTED] [REDACTED] (the "nursing facility"), a long term care nursing facility, admitted the Appellant to their facility. (Exhibit 1: Application and Exhibit 2: Admission Form)
2. [REDACTED] [REDACTED] ("POA") is the Appellant's son-in-law and Power of Attorney. (Hearing Record)
3. On [REDACTED] [REDACTED] 2021, the POA on behalf of the Appellant submitted an application for Medicaid benefits under the Husky C program to the Department. The application lists the Appellant's mailing address as [REDACTED] [REDACTED] [REDACTED] [REDACTED] ("Appellant's mailing address"). The application lists the the POA as the Appellant's Power of Attorney and authorized representative. The application lists the POA's address as [REDACTED] [REDACTED] [REDACTED] [REDACTED] ("POA's mailing address"), an email address as [REDACTED] [REDACTED] [REDACTED] [REDACTED] ("POA's email address"), and the POA's cell phone number and work telephone number. The application lists [REDACTED] [REDACTED] ("facility AREP") as an other representative from the facility with an email address as [REDACTED] [REDACTED] [REDACTED] [REDACTED] ("facility AREP's email address"). The POA submitted a signed W-298 Authorization for Disclosure of Information form on behalf of the Appellant with the application appointing the nursing facility as an authorized representative and allowing the Department to disclose application information to the nursing facility. The POA included complete banking history for reported

bank accounts and proof of income with the application. (Exhibit 1: Application and Exhibit 7: Case Notes)

4. On [REDACTED] [REDACTED] 2021 at 12:59pm, the Department issued the POA and the facility AREP a W-1348LTC Verification We Need (“W-1348LTC”) form via email to the POA’s email address and facility AREP’s email address. The Department requested clarification of payments made to [REDACTED] and [REDACTED]. The Department listed the due date for the information as [REDACTED] [REDACTED] 2021. The Department listed the date the Department must take action by as [REDACTED] [REDACTED] 2021. The Department writes, “If you do not send us all of your proof on time, your benefits may be delayed or denied. We will act on your request for help as soon as possible but no later than [REDACTED]21. If you need help getting the proof or need more time, please call 203-974-8388.” (Exhibit 3: Department Email, Exhibit 6: W-1348LTC Verification We Need, Exhibit 7: Case Notes, and Department Representative’s Testimony)
5. On [REDACTED] [REDACTED] 2021 at 1:07 pm, the Department issued a corrected W-1348LTC form via email to the POA’s email address and facility AREP’s email address. The Department requested bank statements and clarification of payments made to [REDACTED] and [REDACTED]. The Department listed the due date for the information as [REDACTED] [REDACTED] 2021. The Department listed the date the Department must take action by as [REDACTED] [REDACTED] 2021. The Department writes, “If you do not send us all of your proof on time, your benefits may be delayed or denied. We will act on your request for help as soon as possible but no later than [REDACTED]21. If you need help getting the proof or need more time, please call 203-974-8388.” (Exhibit 3: Department Email, Exhibit 6: W-1348LTC Verification We Need, Exhibit 7: Case Notes, and Department Representative’s Testimony)
6. The Department issues requests for verification and documents necessary to determine eligibility for Husky C via email when an email address is provided on an application for benefits. (Department Representative’s Testimony)
7. On [REDACTED] [REDACTED] 2021 at 14:08:30 EDT, the POA received the W-1348LTC email issued by the Department at 12:58:50pm (or 12:59 pm). (Exhibit 5: Email Received and Viewed Receipt)
8. The POA did not receive the corrected email issued by the Department at 1:07pm. (POA’s Testimony)
9. The facility AREP did not receive the email issued by the Department at 12:59pm. (Nursing Facility Representative’s Testimony)

10. On [REDACTED] [REDACTED] 2021 at 13:08:33 EDT, the facility AREP received the corrected email issued by the Department at 13:07:06 EDT (or 1:07pm). (Exhibit 4: Email Received and Viewed Receipt)
11. The Department did not receive any of the requested information by the [REDACTED] [REDACTED] 2021 due date. (Department Representative's Testimony)
12. The POA did not send any of the requested information by [REDACTED] [REDACTED] 2021 due date. (POA's Testimony)
13. On [REDACTED] [REDACTED] 2021, the Department denied the Appellant's application for Husky C effective [REDACTED] [REDACTED] 2021 because the POA on behalf of the Appellant failed to send in the requested information necessary to determine eligibility by the [REDACTED] [REDACTED] 2021 due date. (Exhibit 8: Notice of Action, Exhibit 7: Case Notes, and Department Representative's Testimony)
14. On [REDACTED] [REDACTED] 2021, the Department mailed the Appellant a Notice of Action via United States Postal Service ("USPS"). The notice stated the Department determined the Appellant not eligible for Husky C effective [REDACTED] [REDACTED] 2021. (Exhibit 8: Notice of Action)
15. On [REDACTED] [REDACTED] 2021, the POA submitted an email to the Department requesting an extension of time to submit the requested documentation after learning the application was denied. (POA's Testimony and Exhibit 9: Email)
16. On [REDACTED] [REDACTED] 2021, the Department denied the POA's request for an extension of time to submit the requested documents via email citing the reason for denial of such request as "the case was denied on [REDACTED]/21. To reopen the case, we will need a new LTC application and it will be reassigned to a worker." (Exhibit 10: Department Email and Department Representative's Testimony)
17. On [REDACTED] [REDACTED] 2021, the POA on behalf of the Appellant reapplied for Husky C. (Hearing Record)
18. The issue 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] [REDACTED] 2021. However, the hearing, which was originally scheduled for [REDACTED] [REDACTED] 2021 was rescheduled for [REDACTED] [REDACTED] 2021, at the request of the Appellant, which caused a [REDACTED]-day delay. Because this [REDACTED]-day delay resulted from the Appellant's request, this decision is not due until [REDACTED] [REDACTED] 2021, and therefore timely.

CONCLUSIONS OF LAW

1. Section 17b-2(6) of the Connecticut General Statute 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 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. Section 1500.01 of the Uniform Policy Manual (“UPM”) defines “the application process as all activity related to the exploration, investigation and disposition of an application beginning with the filing of an assistance request and ending with the disposition of the application.”

“The application process outlines the general methods and requirements used in obtaining assistance and in determining an assistance unit’s initial eligibility. The application process is essentially the same for all programs. It is designed to provide aid in a prompt and efficient manner to those who request assistance.” UPM § 1505

4. “An assistance unit may be represented in various aspects of the eligibility by a responsible individual who has been given prior authorization to act as the assistance unit’s representative.” UPM § 1525.05(A)

Department policy provides as follows:

In order to be an authorized representative a person must be a responsible individual who is:

- a. eighteen years of age or older; and
- b. sufficiently familiar with circumstances of the assistance unit.

UPM § 1525.10(A)(1)

“An authorized representative must be designated in writing by one 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)

“An assistance unit is permitted to have one authorized representative at a given time, except in the Food Stamp program where separate representatives may be designated to perform the individual functions of

making application and purchasing food with an EBT debit card.” UPM 1525.05(D)

Department policy provides in pertinent part:

Residents of institutions may apply for assistance and be certified on their own behalf, or through the use of an authorized representative who may be an individual of the applicant’s choice or an employee designated by the institution for this purpose. ...

UPM § 1525(C)(1)(a)

“The appointment of an authorized representative does not relieve the assistance unit of any responsibilities. Both the assistance unit and the representative may be held responsible for assistance improperly obtained through action by the authorized representative.” UPM § 1525.05(G)

“The following individuals are qualified to request cash or medical assistance, be interviewed and, complete the application process on the behalf of others who they represent: a conservator, guardian or other court appointed fiduciary.” UPM § 1505.15(C)(3)

The Department correctly determined the POA as the Appellant’s authorized representative during the application process. Under Department policy, a Medicaid applicant is allowed only one authorized representative, however this does not prevent the Department from choosing to issue notices to additional parties if authorized by applicants, such as a nursing facility representative.

5. “Individuals who desire to obtain aid must file a formal request for assistance.” UPM § 1505.10(B)(1)

“All applicants are required to complete an application form, except as noted below in § 1505.10(A)(3).” UPM § 1505.10(A)

The Department correctly determined the POA on behalf of the Appellant completed an application for Husky C requesting medical benefits to cover the Appellant’s stay in the nursing facility.

6. “The date of application is the date a formal written request for assistance is filed with the Department in accordance with the rules established for the program for which application is made.” UPM § 1500.01

“For AFDC, AABD, and MA applications, except for the Medicaid coverage groups noted below in § 1510.10(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.” UPM § 1505.10(D)(1)

The Department correctly determined the date of application as [REDACTED] 2021.

7. “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 must tell the assistance unit what the unit has to do to establish eligibility when the Department does not have sufficient information to make an eligibility determination.” UPM § 1015.05(C)

“The assistance unit must verify its equity in counted assets.” UPM § 4099.05(A)(1)

“If the unit does not verify its equity in counted assets, the unit is ineligible for assistance.” UPM § 4099.05(A)(2)

On [REDACTED] 2021, the Department correctly issued the POA a W-1348LTC form via email informing the POA that additional asset information was needed to make a determination of the Appellant’s eligibility under the Husky C program.

8. “The assistance unit, by the act of applying for or receiving benefits, assumes certain responsibilities in its relationship with the Department. This chapter describes those responsibilities which an assistance unit assumes when it applies for or receives benefits from the Department.” UPM § 1010

“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 (cross reference: 1555)” UPM § 1010.05(A)(1)

“The verification of information pertinent to an eligibility determination or a calculation of benefits is provided by the assistance unit or obtained through the direct efforts of the Department.” UPM § 1540.10

“The assistance unit bears the primary responsibility for providing evidence to corroborate its declarations.” UPM § 1540.10(A)

9. Department policy provides as follows:

The penalty for failure to provide required verification depends upon the nature of the factor or circumstance for which verification is required:

If the eligibility of the assistance unit depends directly upon a factor or circumstance for which verification is required, failure to provide verification results in ineligibility for the assistance unit. Factors on which unit eligibility depends directly include, but are not limited to:

- a. Income amounts,
- b. Assets amounts.

UPM § 1540.05(D)(1)

10. "The following promptness standards are established as maximum time period for processing applications: forty-five calendar days for: AABD or MA applicants applying on the basis of age or blindness." UPM § 1505.35(C)(1)(2)

"The first day of the processing period begins on the day following the date of application." UPM § 1505.35(C)(2)

"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." UPM § 1505.35(D)(2)(a)

"The following provisions apply if the applicant failed to complete the application without good cause: If assistance cannot be granted: AFDC, AABD and MA cases are denied between the thirtieth day and the last day of the appropriate promptness standard for processing the application." UPM § 1505.40(B)(1)(b)(1)

"Departmental policy provides as follows:

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 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.

UPM § 1505.40(B)(4)

The POA failed to establish good cause for failure to submit the requested verification. Although the POA testified he did not receive the W-1348LTC forms issued by the Department via email, evidence provided by the Department confirms the POA received at least one of the two emails, specifically the first W-1348LTC form requesting clarification of payments made to [REDACTED] and [REDACTED]. However, the POA failed to submit any documentation to the Department by the end of the processing period or contact the Department prior to the end of the processing period to request an extension of time.

On [REDACTED] [REDACTED] 2021, the Department correctly denied the Appellant's application for medical benefits under the Husky C program effective [REDACTED] [REDACTED] 2020 because the POA on behalf of the Appellant failed to provide the Department with at least some of the requested information necessary to make a determination of eligibility. The Department correctly denied the application for Husky C between the 30th day and last day of the 45-day standard of promptness for processing applications. [REDACTED] [REDACTED] 2021 is the 45th day of the application processing standard. However [REDACTED] [REDACTED] 2021 was a Saturday, therefore the Department correctly denied the Appellant's application on the following business day, [REDACTED] [REDACTED] 2021.

11. "The Department must send the assistance unit a notice regarding the Department's determination of the unit's initial eligibility, and, subject to conditions described in Section 1570, adequate notice before taking action to change the unit's eligibility status or the amount of benefits." UPM § 1015.10(C)

On [REDACTED] [REDACTED] 2021, the Department correctly issued a notice of denial to the Appellant via regular mail informing the Appellant the Department denied her application for medical benefits under the Husky C program effective [REDACTED] [REDACTED] 2021.


DISCUSSION

The Department notified both the POA and facility AREP regarding the eligibility criteria needed to make a determination of eligibility under the Husky C program via email, using the emails provided on the Appellant's application. It is reasonable to conclude that the voluntary provision of the POA's and facility AREP's email addresses, signified the POA and facility AREP's agreement to receive communication from the Department via email. Although the POA and facility AREP testified they did not receive the Department's May 5, 2021 emails, evidence provided by the Department shows both the POA and facility AREP received at least one of the emails. It is an applicant's responsibility, or their

representative's responsibility, to provide the information necessary for the Department to make an eligibility determination within a forty-five day processing period. With no communication from the Appellant, the POA, or the facility AREP since the date of application, the Department was correct to deny the Appellant's application for medical benefits under the Husky C program.

DECISION

The Appellant's appeal is denied.



Lisa A. Nyren
Fair Hearing Officer

CC: Musa Mohamud, DSS RO #11
Shayla Streater, DSS RO #20

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.