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 ID #
Client ID #
Request #

NOTICE OF DECISION

PARTY

PROCEDURAL BACKGROUND

On 2021, the Department of Social Services (the "Department") sent (the "Applicant") a notice of action denying her application for Husky C-Long Term Care Medicaid because she did not return all of the required verification.

On 2021, the (the "facility") requested an administrative hearing to contest the Department's decision to deny the Applicant's Long Term Care Medicaid assistance.

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

On , 2021, the Facility requested to reschedule the hearing due to the appointment of a Conservator was in process.

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

On 2021, the Facility requested to reschedule the hearing due to the Probate/Conservatorship hearing being scheduled on the same day.

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

On 2021, in accordance with sections 17b-60, 17b-61, and 4-176e to 4-184, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing.

The following individuals participated in the hearing:

, Conservator of the Estate for the Appellant
, Facility Attorney
Accounts Receivable Supervisor
Akua Okyere, Department's Representative
Shelley Starr, Hearing Officer

The Applicant, was not present at the telephonic hearing due to her health and institutionalization.

STATEMENT OF THE ISSUE

The issue is whether the Department was correct to deny the Applicant's application for long-term care Medicaid for failing to provide verification to establish eligibility.

FINDINGS OF FACT

1. The Applicant is 1: W-1 LTC Application dated 20; Hearing Record)

2. On 2020, the Applicant was admitted to of Connecticut, a skilled nursing facility for an anticipated long-term stay. (Hearing Department's Testimony)

3. On 2020, the Department received the Applicant's application for Long Term Care Medicaid. (Exhibit 1: W-1 LTC application dated /20; Hearing Record)

4. The application was completed and submitted by the Applicant's son, , who was appointed as Power of Attorney ("POA") for the applicant on 2017. (Hearing Record, Exhibit 1; Appellant's Exhibit A: POA document)

5. On 2020, the Department sent the Power of Attorney a W-1348M requesting bank statements, verification of transactions of $5,000.00 or more, and the gross pension amount from . The information was due 2020. (Exhibit 2: W-1348M dated 2020; Hearing Summary)

6. On 2021, the Department reviewed the file and determined that no requested information on the W-1348M was submitted by the Power of Attorney. The

Department conducted a courtesy call to the POA to inquire about his delayed response in providing information. The Department reminded the POA of the requirement of timely providing information necessary to determine eligibility and extended the due date, while informing the POA that no response to the next W-1348M issued will result in the denial of the application. (Hearing Summary; Exhibit 7: Case Notes; entry [redacted] 2021)

7. On [redacted] 2021, the Department sent the POA and the nursing facility business office a Verification We Need ("W-1348LTC") form requesting proof of gross pension, bank statements for all accounts, and verification of all transactions of $5,000.00 or more, including [redacted] statements from [redacted] through [redacted] 2020. The information was due by [redacted] 2021. (Exhibit 3: W-1348LTC issued [redacted] 2021; Hearing Summary)

8. On [redacted] 2021, the Department reviewed the application and determined that they received a transaction worksheet from the POA with provided written explanations of how funds were depleted from the [redacted] accounts. No supporting documentation was received and no requested bank statements were provided. (Exhibit 7: Case Notes; entry [redacted] 2021; Hearing Summary)

9. On [redacted] 2021, the Department sent the POA and the nursing facility business office a W-1348M form requesting proof for all account transactions of $5,000.00 or more, copies of bills, receipts, or canceled checks, and [redacted] statements. The information was due by [redacted] 2021. (Exhibit 4: W-1348M dated [redacted], 2021; Hearing Summary; Exhibit 7: Case Notes; entry [redacted], 2021)

10. On [redacted] 2021, the Department reviewed the application and determined that no requested verification based on the issued W-1348M on [redacted] 2021, was provided. In addition, no communication was made by the POA for an extension of time or assistance from the Department. (Hearing Summary; Exhibit 7: Case Notes; Department's Testimony;Hearing Record)

11. On [redacted] 2021, the Department issued a Notice of Action denying the Long Term Care Medicaid application for failing to return the required proofs by the due date and not meeting the program requirements. (Exhibit 4: Notice of Action dated [redacted] 2021, Hearing Summary; Department's Testimony)

12. On [redacted] 2021, the POA contacted the Department regarding his mother's denied Medicaid application. The Department explained to the POA that the case may be re-opened once he provides at least some if not all of the requested verification. (Hearing Summary; Department's Testimony)

13. The Department has not received any additional communication from the POA or any requested verification needed to re-open the application. (Hearing Record; Department's Testimony)

14. On [redacted] 2021, the [redacted] Probate Court-appointed [redacted] as Conservator of the Estate. (Appellant's Exhibit D: Court of Probate Certificate of Conservatorship dated [redacted] 2021)

15. At the hearing, good cause was claimed for the Applicant's failure to comply with the time limits in the eligibility process, as the Applicant is institutionalized and has no control over the circumstances of her designated Power of Attorney not cooperating with her Medicaid application process. (Hearing Record)

16. 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 to "not later than 120 days" after a request for a fair hearing pursuant to Section 17b-60 by order of the Department of Social Services Commissioner dated [redacted] 2020. The administrative hearing was requested on [redacted] 2021, with a decision due [redacted] 2021. However, due to a 22-day extension due to the rescheduling of the hearing, this decision is due no later than [redacted] 2021, and is therefore timely.

CONCLUSIONS OF LAW

1. Section 17b-2(6) of the Connecticut General Statutes ("Conn. Gen. Stat.") provides 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 of Social Services shall be the sole agency to determine eligibility for assistance and services under programs operated and administered by said department." Conn. Gen. Stat. § 17-261b(a).

3. "The department's uniform policy manual is the equivalent of 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)).

4. Uniform Policy Manual ("UPM") § 1500.01 provides that the application process is an 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.

   UPM § 1505 provides 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.

5. UPM § 1525.15 (C)(1)(a)provides in pertinent part that 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.

   The Department correctly determined that the Applicant had appointed her Son/POA as the AREP qualified to submit an application for Medicaid on behalf of the Applicant.

6. UPM § 1500.01 provides that 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 § 1505.10 (D)(1) provides 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.

   The Department correctly determined the date of application as [redacted] 2020.

7. 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.

   UPM § 1015.05(C) provides 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.

   The Department correctly issued three (3) W-1348 requests for information to the Applicant's Representative informing him what is needed to establish eligibility and the deadline in which to provide the information.

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 § 1505.35(C)(1)(2) provides that a standard of promptness is established as the maximum time period for processing applications. For applicants formMedical a ssistance on the basis of age; that standard is forty-five calendar days.

10. UPM § 1505.40 (B)(5)(a) provides 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.

UPM § 1505.40 (B)(5)(b) provides 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.

The Department correctly did not grant an extension to the AREP on behalf of the Applicant because he did not provide at least one item of verification listed on the W-1348M request for proofs issued on [redacted] 2021, by the [redacted] 2021, designated due date.

11. UPM § 1505.40(B)(1)(b)(1) provides that if the applicant failed to complete the application without good cause, cases are denied between the thirtieth day and the last day of the appropriate standard for processing the application.

    On [redacted] 2021, the Department correctly denied the Applicant's application because none of the requested verification was received by the due date and the representative did not communicate to the Department for an extension or good cause reason for not providing the verification.

12. UPM § 1555.10 (1) & (2) provides for Good Cause and states under certain conditions, good cause may be established if an assistance unit fails to timely report or verify changes in circumstances and the delay is found reasonable. If good cause is established, the unit may be given additional time to complete required actions without the loss of entitlement to benefits for a current or retroactive period.

    UPM § 1555.10 (2)(d) provides good cause may include, but is not limited to other circumstances beyond the unit's control.

    UPM § 1599.10 (A) (1) & (2) provides the Department requires verification of good cause claims by the assistance unit which has failed to comply with the time limits in the eligibility process if the circumstances are questionable; (2) and taking good cause into consideration would affect eligibility or benefit level for a current or retroactive period of time, or otherwise alter the Department's actions.

    UPM § 1599.10 (C) provides failure to provide required verification of good cause circumstances results in non-consideration of the claim.

    It is reasonable to conclude that due to circumstances beyond the Applicant's control, information was not timely provided to the Department by her Power of Attorney.

At the administrative hearing, good cause for not timely providing the requested verification was established.

DISCUSSION

The Department's action to deny the long-term care Medicaid application based on the failure to provide information is overturned. Regulation provides that an application can remain pending as long as good cause for not providing the requested verification by the designated due date exists. At the hearing, it was demonstrated that the Applicant entrusted the responsibility to act on her behalf and complete the application process to her son, as Power of Attorney. While the reason(s) for the POA not cooperating with the application process is unknown, it is clear that he was not fulfilling his duties as POA by completion of the application process, which was evidenced as circumstances beyond the Applicant's control.

The record demonstrates that due to the POA's lack of response with the application process and POA duties, on [redacted] 2021, the [redacted] Probate Court appointed [redacted] as Conservator of the Estate.

Since good cause has been established for not submitting the requested information by the designated due date; the Department shall reopen the long-term care Medicaid application and continue to determine eligibility. This decision does not confer eligibility to the Applicant but allows the application to restart from the application date.

DECISION

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

ORDER

1. The Department shall reopen the Applicant's Long Term Care Medicaid application as of [redacted] 2020, and continue to determine eligibility.

2. The Department shall submit to the undersigned proof of compliance with this order no later than [redacted] 2021.

Shelley Starr
Hearing Officer

Pc: Yecenia Acosta, DSS, Bridgeport
Tim Latifi, DSS, Bridgeport
Robert Stewart, DSS, Bridgeport
Megan Finlayson, DSS, Bridgeport
Jessica Gomez, DSS, Bridgeport

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, law, and 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, if 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 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.