

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 # 175779

NOTICE OF DECISION

PARTY

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

On, ██████████ 2021, the Department of Social Services (the “Department”) sent ██████████, (the “Applicant”) a Notice of Action (“NOA”) granting the application for the Medicaid Long Term Care Assistance program effective ██████████ 2020.

On ██████████ 2021, the Applicant’s Conservator, Attorney ██████████ (the “Conservator”), requested an administrative hearing to contest the effective date of the Long Term Care Medicaid benefits as determined by the Department.

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 4-189, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing by telephone due to the pandemic.

The following individuals participated in the hearing:

Attorney ██████████, Applicant’s Conservator  
██████████, Business Office Manager, ██████████  
Tamara Davis, Department’s Representative  
Swati Sehgal, Hearing Officer

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

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether the Department's decision to grant the Applicant's application for Medicaid effective [REDACTED] 2021, with three months retroactive coverage for [REDACTED] 2020, [REDACTED] 2021, and [REDACTED] 2021, was correct.

### **FINDINGS OF FACT**

1. At the time of the application, the Applicant was admitted to [REDACTED] Center ('the facility') for long-term care. (Exhibit 1: Online Application, Hearing Summary)
2. On [REDACTED], 2020, the Department received an online application for the Applicant for Long Term Care Medicaid. (Hearing Summary, Exhibit 1)
3. On the Application, [REDACTED] and the Applicant's sister, [REDACTED] were listed as the Authorized Representatives ("AREP"). (Exhibit 1, Department's Testimony)
4. On [REDACTED] [REDACTED] 2020, the Department sent W-1348M, Worker Generated Request for Proofs with a due date of [REDACTED], 2020, to the AREP. (Exhibit 2: W-1348M, [REDACTED]/2020, Hearing Summary)
5. On [REDACTED], 2020, the Department received a request for an extension to submit the requested information from the facility. The extension was granted, and information was due on [REDACTED] 2021. (Hearing Summary, Exhibit 11: Case Notes)
6. On [REDACTED] 2021, the Department received an email from the facility requesting another extension as the facility is in process of obtaining a conservatorship document. The Department granted the extension and sent another W-1348M requesting required information with a due date of [REDACTED] 2021. (Hearing Summary, Exhibit 8: Email Communication, Exhibit 11)
7. On [REDACTED] 2021, the Department sent an email to the facility advising to request another extension if more time is needed to obtain the required

- documents. (Hearing Summary, Exhibit 8: Email Communication, Exhibit 11)
8. On [REDACTED], 2021, the Department denied the application as the facility failed to provide the required information or any request for an extension to obtain the required information. The Department did not receive a hearing request for the denial. (Hearing Summary, Exhibit 8: Email Communication, Exhibit 11)
  9. On [REDACTED], 2021, the Department received some information from the Conservator, including the probate certificate of conservatorship. The Department did not take any action on the received verifications as there was not a pending application. (Exhibit E: Document Sent to Scanning Center on [REDACTED]/21, Department's Testimony)
  10. On [REDACTED] 2021, the Department received a new application. (Exhibit 5: Application dated [REDACTED]/21, Hearing Summary, Exhibit 11)
  11. On [REDACTED], 2021, the Department sent W1348M with a due date of [REDACTED] [REDACTED] 2021, to the Applicant at her Conservator's address. (Exhibit 6: W138M, [REDACTED]/21)
  12. On [REDACTED], 2021, the Department received the requested information. (Exhibit 11)
  13. On [REDACTED], 2021, the Department sent a Notice of Action to the Applicant at the Conservator's address stating Husky C Long Term Care Facility Medicaid is granted effective [REDACTED] 2021, and the Department also granted three months retroactive coverage for [REDACTED] 2020, [REDACTED] 2021, and [REDACTED]y 2021. (Hearing Summary, Exhibit 7: Notice of Action, [REDACTED]/21, Exhibit 11)
  14. 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] 2021. This decision, therefore, was due no later than [REDACTED] 2021, and is therefore timely. (Hearing Record)

### **CONCLUSIONS OF LAW**

1. Section 17b-2 and § 17b-260 of the Connecticut General Statutes, authorize 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 (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).
4. 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.
5. 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.
6. The Department correctly sent the Applicant's AREP an application requirement list to the address she provided requesting information needed to establish eligibility.
7. Uniform Policy Manual ("UPM") Section§ 1560.10 A, B and C provides that the beginning date of assistance for Medicaid may be either: the first day of the first, second, or the 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 the first day of the month of the application when all non-procedural eligibility requirements are met during that month; or the actual date in a spend-down period when all non-procedural eligibility requirements are met.
8. The Department was correct when it granted Long Term Care Medicaid Benefits effective [REDACTED] 2020, the third month preceding the application month of [REDACTED] 2021.

### **DISCUSSION**

The issue of this hearing was the effective date of the benefits for the application received on [REDACTED] 2021. The regulation provides that the beginning date of assistance for Medicaid is the first day of the month of the application when all non-procedural eligibility requirements are met during that month or 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. The Department acted in accordance with state policy and regulation when it granted the Appellant's LTC application effective [REDACTED] 2021, as well as the three months prior.

### **DECISION**

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

  
Swati Sehgal  
Hearing Officer

CC: Brian Sexton, Social Services Operations Managers, Middletown, RO 50  
Tamara Davis, Fair Hearing Liaison, New Haven, 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 06105-3725.

### **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, 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.