

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

██████████ 2022
Signature Confirmation

Case ID # ██████████
Client ID # ██████████
Request # 194369

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████, 2022, the Department of Social Services (the “Department”) sent ██████████, (the “Appellant”), a Notice of Action (“NOA”) denying the application for Medicaid Long Term Care Assistance program for failure to provide information.

On ██████████ 2022, ██████████ (the “Appellant’s Conservator”) requested an administrative hearing to contest the Department’s decision to deny the Applicant’s application for Medicaid.

On ██████████ 2022, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2022.

On ██████████ 2022 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 COVID 19 concerns.

The following individuals participated in the hearing:

██, Appellant’s Authorized Representative
██

Ni'ta Freenam, Department's Representative
Swati Sehgal, Hearing Officer

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

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Appellant's application for Medicaid due to failure to submit information needed to establish eligibility was correct.

FINDINGS OF FACT

1. On [REDACTED] [REDACTED], 2021, the Department received an application for Medicaid for Long-Term Care Assistance program. The Appellant was admitted at [REDACTED]. (Exhibit 3: W1LTC)
2. [REDACTED] was listed as the Appellant's Authorized Representative ("AREP") on the Long-Term Care Application. (Department's Summary)
3. On [REDACTED] 2021, probate court appointed [REDACTED] as the Appellant's Conservator. (Exhibit 4: Probate Court Document)
4. On [REDACTED] 2021, the Department mailed W-1348 verification list to AREP [REDACTED] [REDACTED] with a due date of [REDACTED] [REDACTED] 2021. (Department's Summary)
5. On [REDACTED], 2021, the Department mailed W-1348, verification list to the Appellant's Conservator with a due date of [REDACTED], 2021. The Department requested copy of Power of Attorney, W298, copies of Medicare and [REDACTED] Cards proof of any Income received by the Appellant or his spouse, Bank statements from [REDACTED] and [REDACTED] Bank from [REDACTED] 2016, 2017, 2018 and [REDACTED] 2019 to present date, proof of Face Value and Cash Surrender value of Life Insurance Policy. (Exhibit 1: W1348, [REDACTED]/21)
6. On [REDACTED] [REDACTED] 2021, the Department received Probate Court document appointing [REDACTED] as the Appellant's Conservator and W298 for [REDACTED], his assistance, to be the Appellant's AREP. (Exhibit 4)

7. On [REDACTED] 2021, the Department mailed the 2nd W1348 to the Appellant's Conservator requesting for rest of the information from 1st W1348. (Exhibit 1: W1348, [REDACTED]/21)
8. On [REDACTED], 2021, [REDACTED] submitted W298 from [REDACTED] (the "Facility"). (Department's Summary)
9. On [REDACTED] 2021, the Department mailed 3rd W1348 to the Conservator and the Facility with a due date of [REDACTED] 2021. (Exhibit 1, Department's Summary)
10. On [REDACTED] 2022, the Department received a letter from [REDACTED] submitted by the Facility. (Department's Summary)
11. On [REDACTED] 2022, the Department mailed 4th W1348 to the Conservator and the Facility requesting the needed information with a due date of [REDACTED], 2022. (Exhibit 1, Department's Summary)
12. On [REDACTED] 2022, the Department received bank statements from [REDACTED]. (Department's Summary)
13. On [REDACTED] 2022, the Department mailed 5th W1348 with a due date of [REDACTED] 2022, to the Conservator and the Facility requesting rest of the information and Bank Statements from [REDACTED] 2021, thru present, the Appellant was advised to reduce asset and provide verification of that. (Exhibit 1, Department's Summary)
14. On [REDACTED] 2022, AREP from the Facility informed the Department that she received a check from the Appellant. (Department's Summary)
15. On [REDACTED] 2022, the Department mailed 6th W1348 to the Conservator and the Facility requesting needed information with due date of [REDACTED] 2022. (Exhibit 1, Department's Summary)
16. On [REDACTED] 2022, the Facility submitted a copy of the check paid to the Facility. (Department's Summary)
17. On [REDACTED] 2022, the Department mailed 7th W1348 to the Conservator and the Facility with a due date of [REDACTED] 2022, requesting copies of Medicare and [REDACTED] cards, Proof of Veterans Benefits, Bank statements dated [REDACTED] 2021, thru current date and advised to reduce asset and submit verification. (Exhibit 1, Department's Summary)
18. On [REDACTED] 2022, the Department received statements from [REDACTED] verifying the accounts were closed. (Department's Summary)

19. On [REDACTED] 2022, the Department mailed 8th W1348 to the Conservator and the Facility with a due date of [REDACTED] 2022, requesting copies of Medicare and [REDACTED] Insurance Card, and verification of Veterans benefits. (Exhibit 1, Department's Summary)
20. On [REDACTED] 2022, the Department determined that it did not receive any of the requested information by the due date of [REDACTED] 2022. The Department denied the Appellant's application for the reason "You did not return all of the required proofs by the date we asked; and does not meet program requirements". (Department's Testimony, Exhibit 2: Notice of Action, [REDACTED]/22)
21. On [REDACTED] 2022, the Appellant reapplied for Medicaid Long term Care Program. (Department's Testimony, Appellant's AREP's Testimony)
22. The Appellant's AREP [REDACTED] stated that they are trying to get the information from Veteran's Affairs regarding Appellants VA Benefits. She also claimed that she did not receive any W1348s. (AREP's Testimony)
23. 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], 2022. This decision, therefore, was due no later than [REDACTED] 2022. and is therefore timely. (Hearing Record)

CONCLUSIONS OF LAW

1. Section 17b-2 and § 17b-260 of the Connecticut General Statutes, authorizes 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)(1) provides that the policy contained in this chapter pertains to institutionalized individuals and to their spouses.
4. 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).

5. UPM § 3029.05 (C) provides that the look-back date for transfers of assets is a date that is 60 months before the first date on which both the following conditions exist: the individual is institutionalized; and the individual is either applying for or receiving Medicaid.
6. The Department was correct when it determined that it must review assets for the Appellant for the 60-month period immediately preceding her application for Medicaid.
7. UPM § 5005 A provides that the Department counts the assistance unit's available income, except to the extent that it is specifically excluded. Income is considered available if it is:
 1. received directly by the assistance unit; or
 2. received by someone else on behalf of the assistance unit and the unit fails to prove that it is inaccessible; or
 3. deemed by the Department to benefit the assistance unit
8. The Department was correct when it determined that the Appellant must submit verification of his VA benefits.
9. 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 amounts of benefits.
10. 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.
11. The Department correctly sent the Appellant an application requirements list to his Conservator and the Facility requesting information needed to establish eligibility.
12. UPM § 3525.05(A)(c) provides in part for cooperation in the eligibility process that Applicants are responsible for cooperating with the Department in completing the application process by: providing and verifying information as required.
13. UPM 1540.10(A) provides; The assistance unit bears the primary responsibility for providing evidence to corroborate its declarations.
14. UPM § 1505.40(B)(5)(a) provides that for delays due to insufficient verification, 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.

15. The Department correctly provided extensions every time it received at least one item from the verification list.
16. UPM § 1505.35(D)(2) provides that 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, or the client has been granted a 10-day extension to submit verification which has not elapsed
17. UPM § 1505.40(B)(5)(b) provides that 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.
18. The Appellant's Conservator and AREP from the facility failed to submit at least one item of verification from the 8th verification list by the due date of [REDACTED] 2022.
19. The Department correctly denied the Appellant's application for failure to submit information needed to establish eligibility.

DISCUSSION

After reviewing the evidence and testimony presented, the Department's action to deny the Appellant's request for Medicaid is upheld. Departmental regulations are clear that the Applicant bears the primary responsibility to provide the Department with the verifications necessary to determine eligibility.

In [REDACTED] r 2021, Attorney [REDACTED] was appointed the Appellant's Conservator, and [REDACTED], his assistance, was assigned the Appellant's AREP. The Department issued eight Verification We Need Forms to the Conservator and to the Facility. [REDACTED] argued that she never received any verification list from the Department. However, the Department sent eight Verification We Need Forms to the Conservator. Conservator and the AREPs failed to provide any of the requested verifications from the Verification We Need Form #8 to the Department before the deadline of [REDACTED] 2022.

The AREP understands that the Department needs requested information to process the Appellant's application, and it was not provided to the Department by the deadline.

The Department is advised to add [REDACTED] as the Appellant's AREP and to include her in its correspondence. AREP is encouraged to pursue the reapplication on behalf of the Appellant.

DECISION

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

Swati Sehgal
Swati Sehgal
Hearing Officer

CC: Lisa Wells, Social Services Operations Manager, New Haven, RO 20
Rachel Anderson, Services Operations Manager, New Haven, RO 20
Mathew Kalarickal, Services Operations Manager, New Haven, RO 20
Ni'ta Freeman, 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, 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.