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

[REDACTED], 2022
SIGNATURE CONFIRMATION

CASE # [REDACTED]
CLIENT ID # [REDACTED]
REQUEST# 194954

NOTICE OF DECISION

PARTY

[REDACTED]

[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED], 2022, the Department of Social Services (the "Department") issued a Notice of Action ("NOA") to [REDACTED] (the "Applicant") denying his application for medical benefits in the Husky C - Long Term Care Facility Residents Eligible Under Special Income Level ("Husky C") Medicaid program.

On [REDACTED], 2022, Applicant's conservator [REDACTED] (the "Appellant") requested an Administrative Hearing on behalf of the Applicant to contest the Department's decision to deny the Husky C.

On [REDACTED] 2022, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the Administrative Hearing for [REDACTED], 2022.

On [REDACTED], 2022, in accordance with sections 17b-60, 17-61 and 4-176e to 4-189 inclusive, of the Connecticut General Statutes, OLCRAH held an Administrative Hearing.

The hearing which was scheduled in person was held telephonically at the request of the Appellant.

The following individuals participated in the hearing:

[REDACTED], Appellant
Brandy R. Chambers, Department's Representative
Jessica Gulianello, Hearings Officer

The Applicant is institutionalized at [REDACTED] facility and was not present at the Administrative Hearing due to [REDACTED] reasons.

The hearing record remained open to allow both parties time to submit additional information. Additional documents were received and on [REDACTED], 2022, the hearing record closed accordingly.

STATEMENT OF THE ISSUE

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

FINDINGS OF FACT

1. The Appellant was named the Applicant's conservator by Probate Court on [REDACTED] [REDACTED], 2017. (*Appellant's Testimony)*

2. On [REDACTED], 2022, the Applicant was transferred from [REDACTED] Hospital to [REDACTED] Nursing Home. *(Exhibit 8: Facility page, Appellant Testimony)*

3. On [REDACTED], 2022, the Department received an application ("W-1LTC") requesting Long-Term Care Medicaid coverage. The W-1LTC was signed by the Appellant and dated [REDACTED], 2021. *(Exhibit 7: W-1LTC, Department's Testimony)*

4. On [REDACTED], 2022, the Department reviewed the W-1LTC and registered the Appellant's request for Husky C medical coverage on behalf of the Applicant in the Department's online eligibility management system, ("ImpaCT"). *(Exhibit 6: Case Notes dated [REDACTED]/2022, Department's Testimony)*

5. On [REDACTED], 2022, the Department issued the Appellant a Verification We Need ("W-1348LTC") requesting the following documents due by [REDACTED], 2022: conservatorship

documents, LTC application signature page with a current date, ID, and proof of income. *(Exhibit 1: W-1348LTC dated /2022, Department's Testimony)*

6. On , 2022, the Appellant resigned as the Applicant's conservator at a Probate Court Hearing. A successor conservator had not yet been appointed. *(Appellant's Testimony)*

7. On , 2022, the Department received a letter dated , 2022, from the Appellant stating the following, "In response to your requests for conservatorship documents, income and LTC application. Please be advised that during the time I was conservator, I never handled any of his money. Therefore, I would have no bank statements for him. It is my understanding that when he was at Hospital, he did not receive any directly. His only source of income is . Please be further advised that at a hearing held on , 2022, I resigned as Mr. Conservator. I also do not have any of the other items which you requested." *(Exhibit 2: Correspondence dated /2022, Hearing Record)*

8. The Department received a response from the ("") reflecting the Applicant as an account holder of a account with Bank that held a balance of $214.34 as of , 2022. *(Exhibit 9: Match, Department's Testimony)*

9. On , 2022, the Department reviewed the above-referenced correspondence and issued the Appellant a second W-1348LTC requesting the following documents due by , 2022: conservatorship documents, LTC application signature page with a current date, ID, and proof of the Appellant's income and assets (bank look back period to 2017 for Bank account ending). The W-1348LTC stated the following on page two: "Provide statements for all applicable accounts that ever existed at any point within the look back period. Including accounts that have been closed, transferred, held jointly and even those you may not deem as your asset. If the client was ever associated with the account at any point you must identify and verify the accounts with bank statements. The same applies to your spouse if applicable. Please provide specific statements for those accounts listed below until client is deemed asset eligible and any other accounts that we don't have. The complete look back and verification of closure is required for all closed accounts." The W-1348LTC stated the following on page three: "PLEASE BE ADVISED THAT THE APPLICATION BE WILL DENIED IF ITEMS AREN'T RECEIVED BY THE DUE DATE." *(Exhibit 3: W-1348 dated /2022, Hearing Record)*

10. The Appellant testified to receipt of the W-1348LTC dated , 2022. *(Appellant's Testimony)*

11. The Appellant testified that she did not provide a response to the Department's second W-1348LTC as issued on , 2022, by the requested due date of 2022. *(Appellant's Testimony)*

12. On ▇▇▇, 2022, the Department issued an NOA. The NOA advised the Husky C Medicaid coverage was denied citing the following reasons, "You did not return all of the required proofs by the date we asked" and "Does not meet program requirements". *(Exhibit 5: NOA, dated ▇▇/2022, Hearing Record)*

13. The issuance of this decision is timely under section 17b-61(a) of Connecticut General Statutes, which requires that a decision be issued within 90 days of the request for an administrative hearing. The Conservator requested an Administrative Hearing on ▇▇ ▇, 2022. This decision, therefore, was due no later than ▇▇▇, 2022. However, the hearing record, which had been anticipated to close on ▇▇▇, 2022, did not close for the admission of evidence until ▇▇▇, 2022, at the Conservator's request. Because this ▇▇▇ delay in the close of the hearing record arose from the Conservator's request, this final decision was not due until ▇▇▇, 2022, and is therefore timely. *(Hearing Record)*

CONCLUSIONS OF LAW

1. Section 17b-2 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. Conn. Gen. Stat. § 17b-261b(a) provides the following: the Department of Social Services shall be the sole agency to determine eligibility for assistance and services under programs operated and administered by the Department.

3. *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)) provides the following: "The department's uniform policy manual is the equivalent of a state regulation and, as such, carries the force of law."

   The Department has the authority to administer Medicaid.

4. Uniform Policy Manual ("UPM") § 1010 provides the following: "The assistance unit, by the act of applying for or receiving benefits, assumes certain responsibilities in its relationship with the Department."

   UPM §1500.01 provides the following: "The application process is all activity related to the exploration, investigation and disposition of an application beginning with the filing of an assistance request and ending with disposition of the application."

   UPM § 1500.01 provides the following: "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 the application is made."

   UPM § 1505 provides the following: "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 those who request assistance."

UPM § 1015.05(C) provides the following: 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 § 1015.10(A) provides the following: 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 § 1505.15(C)(a)(3) provides the following: The following individuals are qualified To request cash or medical assistance, be interviewed and complete the application process on behalf of others who they represent: a conservator, guardian or other court appointed fiduciary.

UPM § 1505.20(A)(1) provides the following: Individuals who have applied for aid are required to complete the pertinent sections of the application form.

UPM § 1505.20(A)(2) provides the following: The application form:

(a) provides a detailed account of the assistance unit circumstances which are necessary for determining eligibility; and

(b) must be completed to the satisfaction of the Department prior to getting assistance

The Department correctly determined a W-1LTC was received on ████████, 2022, from the Appellant requesting Medicaid benefits on behalf of the Applicant.

5. UPM § 3029.05 (B)(2) provides the following: 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).

   The Department correctly determined that the Applicant is institutionalized.

6. UPM § 1010.05(A)(1) provides the following: 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 § 1015.10(A) provides the following: 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.

The Department correctly sent the Appellant a W-1348LTC application requirements list to address information required to establish the Applicant's eligibility for Husky C Medicaid.

7. UPM § 1500.01 provides the following: "Verification is the act of confirming a fact, circumstance or condition through direct evidence and other reliable documentation or collateral contact."

UPM § 1505.05(A)(3) provides the following: Individuals requesting assistance on behalf of others must be qualified to do so in order for assistance to be granted.

UPM § 3029.05 (A) provides the following: There is a period established, subject to the conditions described in this chapter, during which institutionalized individuals are not eligible for certain Medicaid services when they or their spouses dispose of assets for less than fair market value on or after the look-back date specified in 3029.05 (C). This period is called the penalty period, or period of ineligibility.

UPM § 3029.05 (C) provides the following: 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.

UPM § 4005.05 (A)(1) provides the following: The Department counts the assistance unit's equity in an asset toward the asset limit if the asset is not excluded by state or federal law and is either (a) available to the unit, or (b) deemed available to the unit.

UPM § 4005.05 (B)(2) provides the following: Under all programs except Food Stamps, the Department considers an asset available when actually available to the individual or when the individual has the legal right, authority or power to obtain the asset, or to have it applied for, his or her general or medical support.

UPM § 4015.05 (B)(1) provides the following: The burden is on the assistance to demonstrate that an asset is inaccessible. For all programs except Food Stamps, in order for an asset to be considered inaccessible, the assistance unit must cooperate with the Department as directed, in attempting to gain access to the asset.

UPM § 5005(A) provides the following: In consideration of income, 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 provide that it is inaccessible; or

3. deemed by the Department to benefit the assistance unit.

The Department correctly sent the Appellant a second updated W-1348LTC application requirements list following receipt and review of both the correspondence and the [redacted] match that revealed the Applicant to be a holder of a [redacted] account with [redacted] Bank.

8. UPM § 15001.01 provides that "Adequate Notice is the notice of denial, discontinuance, or reduction of assistance which includes a statement of the Department's intended action, the reasons for the intended action, the specific regulations supporting such action, an explanation of the assistance unit's rights to request a Fair Hearing to contest the action, and the circumstances under which benefits are continued if the unit requests a Fair Hearing.

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

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:

a. the client has good cause for not submitting verification by the deadline; or

b. the client has been granted a 10 day extension to submit verification which has not elapsed; or

c. the Department has assumed responsibility for obtaining verification and has had less than 10 days; or

d. the Department has assumed responsibility for obtaining verification and is waiting for material from a third party.

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.

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.

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.

The Appellant failed to submit at least one item of the verification requested by the due date and she did not contact the Department to request an extension.

The Department correctly issued an NOA and denied the Applicant's application as the Appellant failed to submit the information needed to establish eligibility.

DISCUSSION

The Departmental regulations are clear that the Applicant bears the primary responsibility to provide the Department with the verifications necessary to determine eligibility. Despite the Appellant's resignation, she maintains a responsibility to act in the interest of the Applicant until a successor has been appointed. I find the Appellant failed to provide a response to the second W-1348LTC as issued by the Department by the due date.

The Appellant argued that the referenced documents were submitted to the Department subsequent to the application denial in question. The Department did not dispute the Appellant's position and maintained that said documents were under review. I find that documents received after the issuance of the NOA while outside of the matter of this hearing further support the Department's position that the verifications requested were obtainable by the Appellant.

DECISION

The Appellant's appeal is DENIED.

Jessica Gulianello

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Jessica Gulianello
Administrative Hearing Officer

CC: Brandy Chambers- ESW, Angelica Branfalt- SSOM, Department of Social Services, [redacted] Office (DO 11)

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.