

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

██████████
Signature Confirmation

Case ID # ██████████
Client ID # ██████████
Request # 195023

NOTICE OF DECISION

PARTY

██████████
██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a notice of action denying his HUSKY C Medicaid application for Home and Community Based Services ("HCBS").

On ██████████, the Appellant requested an administrative hearing to contest the Department's denial of his Medicaid application.

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

On ██████████, OLCRAH issued a notice rescheduling the administrative hearing for ██████████.

On ██████████, 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 through a video connection to the New Britain Regional office.

The following individuals were present at the hearing:

██████████, the Appellant's Authorized Representative
Yan Chen, Department's Representative
Desiree Butler, Department's Observer

Sara Hart, Hearing Officer

The Appellant was not present at the administrative hearing due to his hospitalization.

The hearing record remained open for the Department to submit additional evidence. Evidence was submitted and the hearing record closed on [REDACTED]

STATEMENT OF THE ISSUE

The issue is whether the Department's correctly denied the Appellant's HUSKY C HCBS Medicaid application due to failure to provide the information needed to establish eligibility.

FINDINGS OF FACT

1. On [REDACTED], the Appellant submitted an Online Application ("ONAP") to the Department requesting Long Term Services and Support medical assistance. (*Exhibit 1: ONAP*)
2. [REDACTED] is the Appellant's niece and Authorized Representative ("AREP"). (*AREP's Testimony, Hearing Record*)
3. On [REDACTED], the Department reviewed the Appellant's application and issued the Appellant a Verifications We Need form ("W1348LTC") requesting the following information: Home Care Assessment referral, proof of residency, completion of form W298 for appointment of an Authorized Representative, copy of death certificate for spouse, verification of assets, and proof of shelter expenses. The notice provided examples of acceptable documentation and gave a due date of [REDACTED]. The notice stated, "If you need help getting the proof or need more time, call 860-723-1401." A copy of the W1348LTC was sent to the Appellant's AREP. (*Exhibit 2: W1348LTC [REDACTED], Department's Testimony*)
4. On [REDACTED], the Department received the Appellant's birth certificate and address verification. (*Exhibit 4: Case Notes*)
5. On [REDACTED], the Department made an unsuccessful attempt to reach the AREP via telephone and issued a second W1348LTC requesting the following information: Completion of form W298, copy of death certificate for spouse, verification of assets, and proof of shelter expenses. The notice provided examples of acceptable documentation and gave a due date of [REDACTED]. The notice stated "If you need help getting the proof or need more time, call 860-723-1401." (*Exhibit 3: W1348 [REDACTED]*)
6. The Department did not receive any of the verifications requested on the [REDACTED] W1348LTC by the [REDACTED], due date. (*Department's Testimony, Exhibit 4*)

7. There is no evidence in the hearing record that the Appellant or his AREP contacted the Department by the [REDACTED] due date to request assistance obtaining the verifications or an extension of time. (*Hearing Record*)
8. On [REDACTED], the Department issued the Appellant a NOA denying his HUSKY C HCBS application because he did not return all the required proofs by the due date and does not meet program requirements. (*Exhibit 5: NOA [REDACTED]*)
9. The issuance of this decision is timely under Section 17b-61(a) of the Connecticut General Statutes, which requires the Department to issue a decision within 90 days of the request for an administrative hearing. The Appellant requested an administrative hearing on [REDACTED], with the decision due by [REDACTED]. At the AREP's request, OLCRAH rescheduled the [REDACTED], hearing to [REDACTED]. The record remained open through [REDACTED], resulting in a 27-day delay; therefore, this decision is due no later than [REDACTED]

CONCLUSIONS OF LAW

1. Connecticut General Statutes ("Conn. Gen. Stat.") § 17b-2 provides that the Department of Social Services is designated as the state agency for the administration of (6) the Medicaid program pursuant to Title XIX of the Social Security Act.

Section 17b-260 of the Connecticut General Statutes provides the Commissioner of Social Services is authorized to take advantage of the medical assistance programs provided in Title XIX, entitled "Grants to States for Medical Assistance Programs", contained in the Social Security Amendments of 1965 and may administer the same in accordance with the requirements provided therein, including the waiving, with respect to the amount paid for medical care, of provisions concerning recovery from beneficiaries or their estates, charges and recoveries against legally liable relatives, and liens against property of beneficiaries.

The Department has the authority to administer and determine eligibility for the HUSKY C HCBS Medicaid program.

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 (1994) (citing Conn. Gen. Stat. § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A.2d 712 (1990)).
3. UPM §1505.10(D) provides for the date of application. 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 § 2540.92(A) provides for the coverage group description. This group includes individuals who: 1. would be eligible for MAABD if residing in a long-term care facility (“LTCF”); and 2. Qualify to receive home and community-based services under a waiver approved by the Centers for Medicare and Medicaid Services; and 3. Would, without services, require care in an LTCF.

The Department correctly determined a HUSKY C HCBS application date of [REDACTED]

4. UPM § 1015.05(C) provides that the Department must tell the assistance unit what the unit must do to establish eligibility when the Department does not have sufficient information to make an eligibility determination.

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.

The Department correctly sent two W1348LTC Request for Verification forms to the Appellant and his AREP on [REDACTED], and [REDACTED] requesting verifications necessary to establish HUSKY C eligibility and correctly allowed ten days for completion.

5. 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 that the Department requires to determine eligibility and calculate the amount of benefits (cross reference: 1555).

UPM 1505.40(C)(1)(c) provides that the applicant is considered responsible for incomplete applications if the Department has taken the following actions: offered assistance in completing applications materials or procuring difficult to obtain verification; or with the exception of (3) below, has allowed at least ten days from the date it notifies the applicant of a required action for the applicant to complete the action, including requests to provide verification.

The Department correctly determined that the Appellant failed to provide the verifications required to establish HUSKY C HCBS eligibility by the [REDACTED], due date.

6. UPM § 1505.40(A)(1) provides for processing applications and states that prior to making an eligibility determination the Department conducts a thorough investigation of all circumstances relating to the eligibility and amount of benefits.

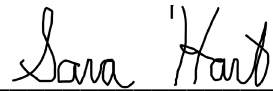
UPM § 1505.35(C) provides that the following promptness standards be established as maximum times for processing applications: forty-five calendar days for AABD or MA applicants applying based on age or blindness.

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

The Appellant failed to provide the verifications required to establish HUSKY C HCBS eligibility and the Department correctly denied the Appellant's application on [REDACTED].

DECISION

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



Sara Hart
Hearing Officer

Cc: Yan Chen, Department Representative, Community Options Unit
hearings.commops@ct.gov

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 requested 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 the 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 the 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 to 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 her designee following §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.