

Swati Sehgal, Hearing Officer

The Appellant did not participate in the hearing due to his institutionalization.

Additional information was received from the Department and the Appellant's AREP. Hearing record closed on [REDACTED] 2022.

STATEMENT OF THE ISSUE

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

FINDINGS OF FACT

1. On [REDACTED], 2021, the Department received an application for LTSS benefits from [REDACTED] (the "Faculty"). The Appellant has been a resident of the Facility in [REDACTED] Connecticut since [REDACTED] 2021. (Exhibit 2: Admission Form, Department's Summary)
2. On [REDACTED] 2021, the Department sent Verification We Need requirements ("W-1348LTC") needed to establish eligibility to the Appellant, his Attorney and the Facility, requesting a proof of current gross monthly income for the Appellant and his spouse, financial statements from 2019 thru current date on all accounts owned by the Appellant and his spouse, verification of community spouse's monthly household expenses, copy of marriage certificate, verification of ownership of their property located at [REDACTED], and conservator documents. The Department gave the Appellant a due date of [REDACTED], 2021. (Exhibit 3: W-1348LTC; Hearing summary, Exhibit 5: Historical Correspondence Detail, 1 [REDACTED])
3. On [REDACTED] 2021, the Department's representative received [REDACTED] Statement and Conservator document from the Facility. (Hearing summary, Exhibit 10: Case Notes)
4. On [REDACTED] 2021, the Department sent the second W-1348LTC to the Appellant, his Attorney, and the Facility requesting [REDACTED] statements for [REDACTED] 2016, 2017, 2018 and from [REDACTED] 2019 thru current, statements from [REDACTED] ending in [REDACTED] to verify the daily withdrawal of \$500.00 in [REDACTED] 2021. [REDACTED] account statements for [REDACTED] 2016, 2017, 2018, and from [REDACTED] 2019 thru current, verification of gross monthly income for the Appellant and his spouse, monthly household expenses for the spouse, and verification of ownership of home property. The Department gave the Appellant a due date of [REDACTED] 2021. (Exhibit 5: W-1348LTC, [REDACTED], Hearing Summary, Exhibit 6: Historical Correspondence Detail, [REDACTED] Exhibit 10)

5. On [REDACTED] 2021, the Facility sent the Department's Representative an email including copies of the Appellant's Social Security Benefits and mortgage statement. The Facility also requested an extension to get rest of the information. (Exhibit A: Copy of the Email sent to the Department on [REDACTED])
6. On [REDACTED] 2021, the Department issued the Appellant a Notice of Action denying the Appellant's LTSS application for failure to provide the information needed to establish eligibility. (Exhibit 7: Notice of Action, [REDACTED]; Hearing summary)
7. On [REDACTED] 2021, the Department sent the Appellant an Application Update notice stating "We are working on your application, but we have been delayed. Please call us if you want to know more." (Exhibit B: Email Correspondence; Application Update)
8. On [REDACTED], 2021, the Department also sent the Appellant W-1348, Proof We Need Form requesting proof of savings and checking account balance with a due date of [REDACTED] 2021. (Exhibit B: Email Correspondence; Proof We Need Form)
9. On [REDACTED] 2021, the Facility sent another Email to the Department's Representative at the same Email address it has sent an email on [REDACTED] 2021, inquiring about the denial notice it has received. The Department's Representative received the Email and responded back advising the Facility to place another application. (Exhibit B: Email Correspondence, [REDACTED])
10. 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's attorney requested an administrative hearing on [REDACTED] 2022, with the decision due by [REDACTED] 2022. However, the hearing, which was scheduled for [REDACTED], 2022, was rescheduled for [REDACTED], 2022, at the request of the Appellant's Attorney, which caused a 27-day delay. Because this 27-day delay resulted from the Appellant's request, this decision is not due until [REDACTED] 2022. However, the close of the hearing record, which anticipated to close on [REDACTED] 2022, did not close for admission of evidence until [REDACTED] 2022, at the Appellant's request. Because to this 3-day delay in the close of the hearing record arose from the Appellant's request, this final decision was not due until [REDACTED] and therefore timely.

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.

Conn. Gen. Stat. § 17b-261a (d) (1) provides for purposes of this subsection, an "institutionalized individual" means an individual who has applied for or is receiving (A) services from a long-term care facility, (B) services from a medical institution that

is equivalent to those services provided in a long-term care facility, or (C) home and community-based services under a Medicaid waiver.

The Appellant is an institutionalized individual of a long-term care facility who has applied for Medicaid coverage with the Department.

2. "The department's uniform policy manual ("UPM") 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)).
3. UPM § 1525.05(A) provides that an assistance unit may be represented in various aspects of the eligibility by a responsible individual who has been given prior authorization to act as the assistance unit's representative.
4. UPM § 1525.10 (A) (1) provides to an authorized representative a person must be a responsible individual who is:
 - a. eighteen years of age or older; and
 - b. sufficiently familiar with circumstances of the assistance unit
5. UPM § 1525.05(C)(2) provides an authorized representative must be designated in writing by one the following individuals: in the AABD and MA programs, by the applicant, or if the applicant is a child, incompetent or incapacitated, by the parent, custodian, or court appointed fiduciary.
6. UPM § 1525.15(C)(1)(a) provides in 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 Facility correctly filed an application on the Appellant's behalf on [REDACTED] 2021, as Appellant's Representative.

7. UPM § 1570.25 (E)(1) provides that following persons attend the Fair Hearing:
 - a. Fair Hearing official; and
 - b. representative from the Department; and
 - c. representative of the local Job Connection office, when appropriate, if the dispute involves a work registration requirement, exemption determination, or finding of failure to appear for an appraisal interview; and
 - d. assistance unit member and/or conservator if the requester is incapable of representing himself or herself; and

- e. authorized representatives if the unit so chooses. At a Food Stamp hearing, the requester may choose to have the authorized representatives attend the hearing in his or her place; and
- f. legal counsel for requester, if there is such counsel; and
- g. friends or relatives of the requester if the requester so chooses; and
- h. parties to the hearing; and
- i. intervenors; and
- j. any other individuals being given an opportunity to present relevant oral or written statements, at the discretion of the Fair Hearing official.

The Facility and the Conservator correctly attended and represented the Appellant at the Administrative Hearing.

8. 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 the Appellant's conservator and the Facility Application Verification Requirements list requesting information needed to establish eligibility.

9. UPM § 1505.35 (D) (2) provides that the Department determines eligibility within the (E)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.

UPM § 1505.40 (B) (4) (a) provides that the eligibility determination is delayed beyond the AFDC, AABD, or MA processing standard if because of unusual circumstances beyond the applicant's control, the application process is incomplete and one of the following conditions exists: (1) eligibility cannot be determined; or (2) determining eligibility without the necessary information would cause the application to be denied.

UPM § 1505.40 (B) (4) (b) provides for delays due to good cause. If the eligibility determination is delayed, the Department continues to process the application until: 1. the application is complete; or 2. good cause no longer exists.

UPM § 1505.40 (B) (5) provides for delays due to insufficient verification. a. 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 period designated by the Department, but more is needed. b. 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 Facility submitted verification of income and mortgage statement requested by the Department within the period designated by the Department and requested an extension to submit the rest of the requested information.

The Department incorrectly determined the Appellant failed to take the needed actions to complete the application process.

DISCUSSION

Departmental regulation requires that an application remain pending if the Appellant submit at least one item of verification within a period designated by the Department, and the Department shall grant additional 10-day extensions for submitting rest of the verifications, if after each subsequent request for verification at least one item of verification is submitted by the assistance unit within each extension period.

The Department claims that requested information was not received and the Appellant's conservator and the AREP did not provide any verification showing that efforts were made to obtain the necessary financial information. The Appellant's representative presented credible evidence demonstrating that an Email was sent to the Department's representative on [REDACTED] 2021, including two items from the verification list, and an extension was requested to submit the rest as well.

The Department wrongfully denied the Appellant's application on [REDACTED] 2021. It's not clear why the Department sent the Appellant a notice on [REDACTED], 2021, informing his application process has been delayed, and Proofs We Need Form asking for Saving and Checking account balance after it has denied the application.

DECISION

The Appellant's appeal is Granted.

ORDER

1. The Department is instructed to reopen the Appellant's application back to [REDACTED] 2021.
2. The Department will continue to process the application and if necessary, issue a W-1348 Verification We Need List requesting missing information needed to determine eligibility.
3. The Department will submit to the undersigned verification of compliance with this order no later than [REDACTED], 2022.

Swati Sehgal
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Hearing Officer

Cc: Rachel Anderson, SSOM, DSS, R.O.20
Mathew Kalarickal, SSOM, DSS, R.O.20
Lisa Wells, SSOM, DSS, R.O.20
Paula Wilczynski, Hearing Liaison, DSS, R.O.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, 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 her 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.