

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

██████████ 2023
Signature Confirmation

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Request # 201454

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 denying the Appellant’s application for Medicaid Long Term Support Services (“LTSS”).

On ██████████ 2022, the Appellant requested an administrative hearing to contest the Department’s decision to deny the Appellant’s LTSS application.

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

On ██████████ 2022, the Appellant’s conservator requested the hearing to be rescheduled.

On ██████████, 2022, OLCRAH issued a notice rescheduling a telephone administrative hearing for ██████████ 2022.

On ██████████ 2022, 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 by telephone. The following individuals participated in the hearing:

[REDACTED], Appellant's son, and Conservator
 [REDACTED], Resident Trust Coordinator, [REDACTED]
 [REDACTED], Business Office Manager, [REDACTED]
 Doris Hare, Department's Representative
 Carla Hardy, Hearing Officer

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

The hearing record was held open for an additional five days to allow the opportunity for both parties to submit documentation. The documentation was received from both parties. On [REDACTED] 2022, the hearing record closed.

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 Appellant was admitted to [REDACTED] (the "nursing facility"), a long-term care facility located in [REDACTED] Connecticut. (Exhibit 1: Long-term Care Application ("W-1LTC"))
2. On [REDACTED] 2021, the Department received the Appellant's application for LTSS benefits. The Appellant listed his spouse [REDACTED] and indicated that they were separated. There was no authorized representative listed on the application. (Exhibit 1)
3. On [REDACTED] 2021, the Department sent the Appellant a request for information required to establish eligibility for the program. The Department requested proof of the Appellant's Legal Separation from his spouse and proof of assets. The Department notified the Appellant that if he was not legally separated, he would need to provide the spouse's date of birth and social security number. The Department further notified the Appellant that they needed the spouse's shelter expenses and assets if they were not legally separated. The information was due [REDACTED] 2022. (Exhibit 2: Worker Generated Request for Proofs ("W-1348M"))
4. Between [REDACTED] 2022, and [REDACTED] 2022, the Department sent the Appellant three additional requests for information. (Exhibit 3: W-1348M, [REDACTED]/22; Exhibit 4: W-1348M, [REDACTED]/22; and Exhibit 5: W-1348M, [REDACTED]/22)
5. On [REDACTED] 2022, [REDACTED], the Appellant's son (the "Conservator") was appointed Conservator of the estate and/or the person of the Appellant. (Appellant's

After Hearing Exhibit C: Decree/Appointment of Conservator/Voluntary Representation)

6. On [REDACTED] 2022, the Department sent the Appellant a request for information that included proof of the death certificate or divorce decree if he is widowed or divorced and proof of assets that he and his spouse may own if he is not divorced or legally separated. The information was due [REDACTED] 2022. (Exhibit 6: W-1348M, [REDACTED]/22)
7. On [REDACTED] 2022, the nursing facility's Business Office Manager contacted the Department and asked if the email from the Conservator stating that he was unsuccessful in reaching the Appellant's spouse, and that he did not have any information about the spouse, was sufficient documentation. (Appellant's After Hearing Exhibit D: Email Correspondence Between the Conservator and the Facility and the Facility and the Department, [REDACTED]/22)
8. On [REDACTED] 2022, the Department sent the Appellant a request for information needed to establish eligibility. The Department requested proof of the spouse's income, assets, date of birth and social security number. The information was due [REDACTED] 2022. (Exhibit 7: W-1348M, [REDACTED]22)
9. On [REDACTED], 2022, the Appellant signed a notarized letter reporting he has been estranged from his spouse for ten years and has not had contact with her since that time. (Appellant's Exhibit B: Letter from the Appellant, [REDACTED]22)
10. On [REDACTED] 2022, the nursing facility's Business Office Manager contacted the Department via email. She submitted a copy of the Appellant's notarized letter dated [REDACTED] 2022. She requested advice on how to proceed as she did not know what other steps to take. (Appellant's After Hearing Exhibit E: Email Correspondence from the Business Office Manager, [REDACTED]/22)
11. The Department did not receive any information from the Conservator about the spouse's income, assets, possible address, date of birth, or date that she and the Appellant were married. (Department's Testimony)
12. On [REDACTED] 2022, the Department denied the LTSS application for failure to provide the requested information by the due date. (Exhibit 8: NOA, [REDACTED]22)
13. On the date of this hearing, the Conservator reported that he believes that the Appellant and his spouse were married in 1998 or 1999. (Conservator's Testimony)
14. On the date of this hearing, the Conservator reported that he believes that the Appellant's spouse lives in [REDACTED] or [REDACTED]. He did not give this information to the Department because he didn't know if the information was correct. (Conservator's Testimony)

15. 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, 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 Conservator which caused a 29-day delay. The hearing record was further delayed an additional five days for the Appellant and the Department to submit additional information which caused a 34-day delay. Because of this 34-day delay, this decision is not due until [REDACTED] 2023.

CONCLUSIONS OF LAW

1. Connecticut General Statutes ("Conn. Gen. Stat.") Section 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-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.

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. Title 42 of the Code of Federal Regulations (C.F.R.) Section 441.450(c) provides that legally liable relatives means persons who have a duty under the provisions of State law to care for another person. Legally liable relatives may include any of the following:
- (1) The parent (biological or adoptive) of a minor child or the guardian of a minor child who must provide care to the child.
 - (2) Legally-assigned caretaker relatives.
 - (3) A spouse.

Conn. Gen. Stat. § 17b-261(a) provides in part that Medical assistance shall be provided for any otherwise eligible person whose income, including any available support from legally liable relatives and the income of the person's spouse or dependent child, is not more than one hundred forty-three per cent, pending approval of a federal waiver applied for pursuant to subsection (e) of this section, of the benefit amount paid to a person with no income under the temporary family assistance program in the appropriate region of residence and if such person is an institutionalized individual as defined in Section 1917 of the Social Security Act, 42

USC 1396p(h)(3), and has not made an assignment or transfer or other disposition of property for less than fair market value for the purpose of establishing eligibility for benefits or assistance under this section.

The Department correctly determined that the Appellant's spouse is a legally liable relative.

3. "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)).

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

UPM §1015.05(C) provides that 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 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 issued the W-1348M, Worker Generated Requests for Proofs requesting documentation required to establish eligibility.

4. UPM § 1505.40(B)(5)(a) provides that for incomplete applications, 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.
5. UPM § 1505.40(B)(5)(b) provides that an additional 10 day extension 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 Department correctly issued subsequent requests for additional information when the Appellant supplied at least one item of verification that was requested from the request.

6. UPM § 1505.35(C)(1)(d) provides that a standard of promptness is established as the maximum time period for processing applications. For applicants applying for Medical Assistance on the basis of age; that standard is forty-five calendar days.

UPM § 1505.35(D)(2)(b) provides that the Department determines eligibility within the standard of promptness except when verification needed to establish eligibility is delayed and the client has been granted a 10 day extension to submit verification which has not elapsed.

UPM § 1505.40(B)(1)(b)(1) provides that if the applicant failed to complete the application without good cause, cases are denied between the thirtieth day and the last day of the appropriate standard for processing the application.

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.

UPM § 3599.15(A) provides that an applicant or recipient is required to submit documentary evidence at hand or readily attainable to enable the Department to locate and pursue support from legally liable relatives.

The Conservator did not supply the Department with the information that he had regarding the Appellant's spouse.

The Conservator did not supply any additional information after the Department's last request for information.

On [REDACTED], 2022, the Department correctly denied the LTSS application when it did not receive any requested items from the request for verification that was issued on [REDACTED] 2022.

DECISION

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

Carla Hardy
Carla Hardy
Hearing Officer

Doris Hare, Hearing Liaison, Department of Social Services, Middletown

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.