

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

██████████ 2023
Signature confirmation

Case: ██████████
Client: ██████████
Request: 209574

NOTICE OF DECISION

PARTY

██████████
██
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2023, the Department of Social Services (the “Department”) issued a *Notice of Action* to ██████████ (the “Appellant”) denying his ██████████ 2022 HUSKY-C Medicaid application.

On ██████████, 2023, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) received an administrative hearing request, postmarked ██████████, 2023 and signed by ██████████ (the “Conservator”), the Appellant’s conservator of estate.

On ██████████, 2023, the OLCRAH scheduled the Appellant’s administrative hearing for ██████████ 2023.

On ██████████ 2023, in accordance with sections 17b-60, 17b-61, and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, the OLCRAH held an administrative hearing. The following individuals participated:

██████████, Conservator
██, Appellant’s Witness
Sunasha Nixon, Department Representative
Eva Tar, Hearing Officer

The hearing record closed ██████████, 2023.

STATEMENT OF ISSUE

The issue is whether the Department's denial of the Appellant's [REDACTED], 2022 HUSKY-C Medicaid application is supported by State statute and regulation.

FINDINGS OF FACT

1. The Appellant's date of birth is [REDACTED]. (Appellant Exhibit A)
2. On [REDACTED] 2022, [REDACTED], a skilled nursing facility, admitted the Appellant as a resident. (Appellant's Witness Testimony)
3. On [REDACTED], 2022, the [REDACTED] Probate Court (the "Court") appointed the practice of [REDACTED] [REDACTED] [REDACTED], the Appellant's conservator of estate. (Conservator Testimony)
4. On [REDACTED] 2022, the Department received the Appellant's HUSKY-C Medicaid application for long-term care. (Dept. Exhibit 2)
5. On [REDACTED], 2022, the Department issued a *Worker Generated Request for Proofs* for the submission of specific bank statements for [REDACTED] and [REDACTED] [REDACTED] by [REDACTED] 2022. (Dept. Exhibit 3)
6. On or around [REDACTED], 2022, the Department received a [REDACTED] statement and a [REDACTED] statement by email. (Dept. Exhibit 2)
7. On [REDACTED], 2022, the Department issued a *Worker Generated Request for Proofs* for the submission of the following by [REDACTED] 2023: missing bank statements for 1) [REDACTED] of [REDACTED]; [REDACTED]; [REDACTED]; [REDACTED]; and 2) [REDACTED] [REDACTED] for [REDACTED]; and [REDACTED] [REDACTED]. (Dept. Exhibit 4)
8. The [REDACTED], 2022 *Worker Generated Request for Proofs* advised the Appellant that the information was needed to permit the Department to determine the Appellant's eligibility. (Dept. Exhibit 4)
9. On [REDACTED] 8, 2022, the Conservator approached the Court, alleging that she was unable to access the Appellant's [REDACTED] account without a Court order. (Appellant Exhibit A) (Conservator Testimony)
10. On [REDACTED] 2023, the Court scheduled a hearing date of [REDACTED] 2023 to address the Conservator's petition. The Court did not notice the Department for the [REDACTED] 2023 hearing. (Appellant Exhibit B, ORDER OF NOTICE OF HEARING, [REDACTED])
11. As of [REDACTED] 2023, the Department had not received any of the items it had requested from the Appellant listed on the [REDACTED] 2022 *Worker Generated Request for Proofs*. (Department Representative Testimony)

12. The Department's field offices are open Monday, Tuesday, Thursday, and Friday, from 8:00 a.m. to 4:30 p.m. The Department's Benefit Center phones are open Monday, Tuesday, Thursday, and Friday from 7:30 a.m. to 4:30 p.m.¹
13. On [REDACTED] 2023, the Department denied the Appellant's [REDACTED] 2022 HUSKY-C Medicaid application during business hours. (Dept. Exhibit 1)
14. After the Department's business hours, on 5:45 p.m., [REDACTED] 2023, the Department received an email from the Appellant's Witness asserting that bank statements had been physically mailed to the Department. The Appellant's Witness had not attached the documents to her email to the Department. (Department Representative Testimony)
15. On [REDACTED] 2023, the Department received by mail some of the documents listed on the [REDACTED] [REDACTED] 2022 *Worker Generated Request for Proofs*. (Department Representative Testimony)
16. On [REDACTED] 2023, the Court ordered [REDACTED] to close account [REDACTED], to surrender the funds to the Conservator, and to provide bank statements from [REDACTED] 2017 to present or the closing date to the Conservator. (Appellant Exhibit C)
17. On [REDACTED] 2023, the Department received the Appellant's new HUSKY-C Medicaid application. (Department Representative Testimony)
18. Prior to [REDACTED], 2023, the Conservator had not informed the Department of the specifics of the Conservator's involvement of the Court in the matter of [REDACTED] [REDACTED] and the issuance of the [REDACTED] Court order. (Department Representative Testimony) (Conservator Testimony)
19. Connecticut General Statutes § 17b-61 (a) provides: "The Commissioner of Social Services or the commissioner's designated hearing officer shall ordinarily render a final decision not later than ninety days after the date the commissioner receives a request for a fair hearing pursuant to section 17b-60," On [REDACTED], 2023, the OLCRAH received the Appellant's [REDACTED], 2023 postmarked hearing request. This hearing decision would have become due by no later than [REDACTED] 2023. This final decision is timely.

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes in part designates the Department of Social Services as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.

"The Commissioner of Social Services may make such regulations as are necessary to administer the medical assistance program...." Conn. Gen. Stat. § 17b-262.

"The department's uniform policy manual 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

¹ Taken from the Department's portal at ct.gov.

Conn. Gen. Stat. § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A.2d 712 (1990)).

The Department has the statutory authority to administer the Medicaid program in Connecticut and make such regulations as necessary for the same.

2. Section 17b-80 (a) of the Connecticut General Statutes provides in part that “[t]he commissioner shall grant aid only if he finds the applicant eligible therefor, in which case he shall grant aid in such amount, determined in accordance with levels of payments established by the commissioner,” and “[t]he commissioner, ... , shall in determining need, take into consideration any available income and resources of the individual claiming assistance....”

“Prior to making an eligibility determination, the Department conducts a thorough investigation of all circumstances relating to eligibility and the amount of benefits.” Uniform Policy Manual (“UPM”) § 1505.40 A.1.

The Department had the authority under Conn. Gen. Stat. § 17b-80 (a) and UPM § 1505.40 A.1. to review the Appellant’s circumstances to determine whether his available income and resources were within the HUSKY-C Medicaid program’s limits.

3. “For every program administered by the Department, there is a definite asset limit.” UPM § 4005.05 A.

With respect to the Medicaid program associated with the Aid to the Aged, Blind, and Disabled, Categorically and Medically Needy, “([e]xcept Qualified Medicare Beneficiaries, Specified Low Income Medicare Beneficiaries, Additional Low Income Medicare Beneficiaries, Qualified Disabled and Working Individuals, Working Individuals with Disabilities and Women Diagnosed with Breast or Cervical Cancer), a. The asset limit is \$1,600 for a needs group of one.” UPM § 4005.10 A.2.

As a condition of HUSKY-C Medicaid eligibility, the Appellant was subject to the Medicaid program’s \$1,600.00 asset limit for an individual.

4. “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 (cross reference: 1555).” UPM § 1010.05 A.1.

The Conservator was required to submit the requested documentation to the Department by the Department’s deadlines.

5. Section 1505.35 C. of the Uniform Policy Manual address the standard of promptness for processing 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.” UPM § 1505.40 B.5.a. (emphasis added)

“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 § 1505.40 B.5.b.

In order to receive a 10-day extension beyond the Department’s ██████████ 2023 deadline, the Conservator was required to submit at least one of the items requested on the ██████████ 2022 Worker Generated Request for Proofs by ██████████ 2023.

6. Section 1505.40 B. 4. of the Uniform Policy Manual provides:

Delays Due to Good Cause (AFDC, AABD, MA Only)

a. 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.

b. 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.4.

It is reasonable to conclude that the documents received by the Department by mail on ██████████ 2023 were not documents responsive to the Court’s ██████████ 2023 Order.

The Conservator did not have good cause, as “good cause” is defined at UPM § 1505.40 B.4., to fail to submit at least one of the documents requested on the ██████████, 2022 Worker Generated Request for Proofs to the Department by its ██████████ 2023 deadline.

7. “The Department may complete the eligibility determination at any time during the application process when adequate information exists to determine ineligibility because one or more eligibility requirements are not satisfied.” UPM § 1505.40 A.4.d.

“Incomplete Applications. 1. Applicant Failure (All Programs). The following provisions apply if the applicant failed to complete the application without good cause: a. ...; b. ...; c. The applicant's failure to provide required verification by the processing date causes: (1) one or more members of the assistance unit to be ineligible if the unverified circumstance is a condition of eligibility; or (2) the circumstance to be disregarded in the eligibility determination if consideration of the circumstance is contingent upon the applicant providing verification;” UPM § 1505.40 B.1.c.

The Department correctly determined that the Conservator had failed to submit verification that the Appellant met the financial eligibility requirements of the HUSKY-C Medicaid program by the Department's [REDACTED] 2023 processing date.

The Department correctly denied the Appellant's [REDACTED] 2022 HUSKY-C Medicaid application.

8. "Verification received after the date that an incomplete application is processed: (1) is used only with respect to future case actions; and (2) is not used to retroactively determine a corrective payment." UPM § 1505.40 B.1.d.

The Appellant's documents received by the Department on [REDACTED] 2023 were not a timely submission of verification with respect to the Appellant's [REDACTED], 2022 HUSKY-C Medicaid application, as the documents were received after the Department's [REDACTED] 2023 deadline.

Section 1505.40 B.1.d. of the Uniform Policy Manual prohibits the usage of the documents received by the Department on [REDACTED] 2023 to retroactively reopen the Appellant's denied [REDACTED] 2022 HUSKY-C Medicaid application.

DECISION

The Appellant's appeal is DENIED.

Eva Tar-electronic signature
Eva Tar
Hearing Officer

Cc: Sunasha Nixon, DSS-New Haven
Sarah Chmielecki, DSS-New Haven
Tim Latifi, DSS-New Haven
Ralph Filek, DSS-New Haven

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.