

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

Case ID: ██████████
Client ID: ██████████
Request: 209964

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 his Medicaid application for Long Term Support Services (“LTSS”).

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

On ██████████ 2023, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████, 2023.

On ██████████, 2023, 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.

The following individuals were at the hearing:

██████████, Appellant’s Conservator and Authorized Representative
Allan Meza, Department’s Representative
Scott Zuckerman, Hearing Officer

The Appellant was not present at the administrative hearing as he is institutionalized.

STATEMENT OF THE ISSUE

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

FINDINGS OF FACT

1. On [REDACTED] [REDACTED] 2022, the Appellant was admitted to [REDACTED] [REDACTED] [REDACTED] [REDACTED] (the "Facility") (Hearing Record)
2. On [REDACTED] 2022, the Appellant applied for Long Term Care Medicaid Benefits. (Appellant's testimony and Hearing Summary)
3. On [REDACTED] 2022, the Department denied the [REDACTED] 2022, application because the Appellant did not provide the information requested to establish eligibility. (Department's testimony and Hearing Summary)
4. On [REDACTED] 2022, the Appellant's conservator applied for Long Term Care Medicaid benefits. (Appellant's conservator's testimony and Hearing Summary)
5. On [REDACTED] 2022, the application was assigned to a Department representative for processing. (Hearing Summary and Exhibit 7: Case note)
6. On [REDACTED], 2022, the Department sent the Appellant a W-1348LTC, Verification We Need Form to the Appellant's conservator requesting information needed to determine eligibility. Among the items requested was a copy of the Appellant's divorce decree, Bank of America account [REDACTED] statements, Liberty Bank account # [REDACTED] statements. The due date for the requested information was [REDACTED], 2022. (Department's testimony and Exhibit 6: W-1348LTC)
7. On [REDACTED], 2022, the Department determined there was no response and no information provided by the Appellant's conservator from the [REDACTED], 2022 request. (Department's testimony and Exhibit 7: Case notes, [REDACTED]/2022)
8. On [REDACTED] 2022, the Department denied the Appellant's application for Husky C – Long term care Medicaid because "you did not return all of the required proofs by the date we asked." (Exhibit 2: Notice of Action, [REDACTED]/2022)
9. The issuance of this decision is timely under Connecticut General Statutes ("Conn. Gen. Stat.") §17b-61(a), which requires that a decision be rendered within 90 days of the request for an administrative hearing. The Appellant's representative requested an administrative hearing on [REDACTED], 2022. Therefore, this decision is due no later than [REDACTED] 2023, and is timely. (Hearing Record)

CONCLUSIONS OF LAW

1. 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-260 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.

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.

The Department has the authority to administer and determine eligibility for the 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. "The assistance unit has the right to apply for assistance under any of the programs administered by the Department." UPM § 1005.05 (A)

The Appellant's representative applied for Long Term Care Medicaid on [REDACTED], [REDACTED]

4. "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." UPM § 1010.05 (A) (1)

"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 § 1015.10 (A)

“The Department must send the assistance unit a notice regarding the Department's determination of the unit's initial eligibility, and, subject to conditions described in Section 1570, adequate notice before taking action to change the unit's eligibility status or the amount of benefits.” UPM § 1015.10 (C)

The Department correctly sent the Appellant's conservator an Application Verification Requirements list requesting information needed to establish eligibility.

5. “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 § 1505.35 (C)

The standard of promptness for a MA application based on age is 45 days.

6. 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.

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: a. Eligibility cannot be determined; or b. Determining eligibility without the necessary information would cause the application to be denied.

“If the eligibility determination is delayed, the Department continues to process the application until: 1. Eligibility cannot be determined; or 2. Good cause no longer exists.” UPM § 1505.40 (B) (4) (b)

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.

Good cause does not exist due to unusual circumstances beyond the applicant's control.

The Appellant's representative did not request the Department's help in obtaining any of the requested verification needed to establish eligibility.

7. "The verification of information pertinent to an eligibility determination or a calculation of benefits is provided by the assistance unit or obtained through the direct efforts of the Department. (A) The assistance unit bears the primary responsibility for providing evidence to corroborate its declarations." UPM § 1540.10

"The assistance unit may submit any evidence which it feels will support the information provided by the unit." UPM § 1540.10 (B)

UPM § 1540.10 (C) provides the Department obtains verification on behalf of the assistance unit when the following conditions exist: 1. the Department has the internal capability of obtaining the verification needed through such means as case files, microfiche records, or direct access to other official records; or 2. the Department has the capability to obtain the verification needed, and the assistance unit has done the following: a. made a reasonable effort to obtain the verification on its own; and b. been unable to obtain the verification needed; and c. requested the Department's help in obtaining the verification; and d. continued to cooperate in obtaining the verification.

UPM § 3525.05 (B) provides for penalties related to the eligibility process. 1. Noncompliance with the application process. a. An application is denied when an applicant refuses to cooperate with the Department. b. It must be clearly shown that the applicant failed to take the necessary steps to complete the application process without good cause before the application is denied for this reason.

The Appellant or the Appellant's authorized representative did not submit any of the requested verifications or request an extension on the request for information with the due date of [REDACTED] 2022.

Because the Appellant's representative did not submit the requested information or have good cause for failure to do so, the Department correctly denied the Appellant's application for failure to submit information needed to establish eligibility.

DECISION

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

Scott Zuckerman
Scott Zuckerman
Hearing Officer

Cc: Josephine Savastra, Operations Manager, DSS, Hartford Regional Office
Lindsey Collins, Operations Manager, DSS, Hartford Regional Office
Wilfredo Medina, Fair Hearing Liaison Supervisor, DSS, Hartford Regional Office
Allan Meza, DSS, Waterbury Regional Office

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 his 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.