

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 # 213216

**NOTICE OF DECISION**

**PARTY**

██  
██  
██

**PROCEDURAL BACKGROUND**

On ██████████ 2023, the Department of Social Services (“the Department”) sent ██████████ ██████████ the Applicant”) a notice of action (“NOA”) denying her application for Husky C Medicaid Long Term Care for Facility Residents (“LTCF”) for failure to provide information needed to establish eligibility.

On ██████████ 2023, ██████████ (the “Appellant”), the Applicant’s Administrator of the Estate requested an administrative hearing to contest the Department’s decision to deny the Applicant’s Medicaid LTCF application.

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

On ██████████ 2023, the Appellant requested the hearing be rescheduled.

On ██████████, 2023, OLCRAH issued a notice rescheduling 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 participated in the hearing:

██████████, Attorney, the Appellant, Applicant's Administrator of the Estate  
██████████, Facility's Attorney  
██████████, Applicant's Sister  
Brandy Chambers, Department's Representative  
John Dileonardo, Department's Representative  
Kristin Haggan, Hearing Officer

The Applicant did not participate in the hearing as she is deceased.  
The Applicant's spouse did not participate in the hearing due to his hospitalization.

The hearing record remained open for an additional █████ days to allow the opportunity for the Appellant and the Department to submit documentation. The Appellant submitted documents; the Department did not. On █████, 2023, the hearing record closed.

### **STATEMENT OF THE ISSUE**

The issue is whether the Department correctly denied the Applicant's Husky C Medicaid LTCF application for failure to submit information needed to establish eligibility.

### **FINDINGS OF FACT**

1. On █████ 2021, the Applicant entered █████  
("the Facility"), a long-term care facility located in █████. (*Hearing Record*)
2. █████ is the Applicant's spouse and was her Conservator of the Person until her death. He has medical issues that have led to numerous surgeries, treatments, and hospitalizations. As a result of his medical conditions, he was unable to be the Applicant's Conservator of the Estate. (*Exhibit 33: Letter from █████, Exhibit 6: Email from Attorney and Decree/Appointment of Conservator*)
3. On █████ 2021, the Applicant submitted an application to the Department for LTCF coverage. (*Exhibit 1: Long-term Care Application W-1LTC*)
4. On █████, 2021, the Department processed the Applicant's application for LTCF benefits and issued W1348 Request for Proof ("W1348") to the Facility and the Applicant's spouse requesting the following verifications needed to establish eligibility: a copy of the Applicant's Medicare card and medical insurance card, power of attorney or conservatorship documents, proof of gross pension benefits for the Applicant and her spouse, bank statements for all bank accounts for the months of █████, █████, █████, █████ all bank statements received during the period of █████ through █████, property deeds, proof of all funeral contracts, and proof of shelter expenses. The verifications were due back by █████ 2021. (*Exhibit 2: W1348 █████*)

5. On [REDACTED] 2021, the Facility submitted a letter to the Department stating that it was filing for guardianship of the Applicant as “her spouse has financially abandoned her”. The Facility provided authorization for the disclosure of information to the Facility and appointment of the Facility as the Applicant’s Authorized Representative. The Applicant signed the form and dated it [REDACTED] 2021, and specified that the authorization would expire at the time of her death. (*Exhibit 3: Letter from [REDACTED] and W298 Form*)
6. On [REDACTED] 2021, the Department issued a second W1348 for the following verifications: guardianship documents, proof of gross pension benefits for the Applicant and her spouse, bank statements for all bank accounts for the months of [REDACTED], [REDACTED], [REDACTED], all bank statements received during the period of [REDACTED], and property deeds. The verifications were due back by [REDACTED]/21. (*Exhibit 4: W1348 [REDACTED] 21*)
7. On [REDACTED] 2021, the Facility requested an extension due to a pending court hearing for the conservatorship appointment. The Facility provided notice of the hearing and the petition/involuntary appointment of the conservator. (*Exhibit 5: Notice of the Hearing and Petition/Involuntary Appointment of Conservator*)
8. On [REDACTED], 2021, Attorney [REDACTED] (the “Conservator”) contacted the Department and provided proof that she had been appointed Conservator of the Estate, effective [REDACTED] 2021. (*Exhibit 6*)
9. On [REDACTED] 2021, the Department issued a third W1348 for the following verifications: proof of pension benefits for the Applicant and her spouse, bank statements for all bank accounts for the months of [REDACTED], [REDACTED], [REDACTED], all bank statements received during the period of [REDACTED] through [REDACTED], and property deeds. The verifications were due back by [REDACTED] 2021. (*Exhibit 7: W1348 [REDACTED] 21*)
10. On [REDACTED] 2021, the Conservator submitted copies of the Applicant’s real estate property records to the Department and requested an extension. On [REDACTED] 2022, the Department reviewed these documents and issued the fourth W1348 for the following verifications: proof of pension benefits for the Applicant and spouse, bank statements for all bank accounts for the months of [REDACTED], [REDACTED], [REDACTED], and all bank statements received during the period of [REDACTED] through [REDACTED]. The verifications were due back by [REDACTED], 2022. (*Exhibit 8: Email [REDACTED] 21 and Property Records, Exhibit 9: W1348 [REDACTED] 22*)
11. On [REDACTED] 2022, the Conservator submitted the Applicant’s bank account statements for the months of [REDACTED] through [REDACTED] and [REDACTED] through [REDACTED] (*Exhibit 10: Email [REDACTED] 22 and Bank Account Statements*)

12. On [REDACTED] 2022, the Department reviewed the bank statements that were received on [REDACTED] 2022. The Department issued the fifth W1348 for the following verifications: proof of gross pensions for the Applicant and spouse, life insurance face value and the cash surrender value, mortgage statement, funeral contract, personal needs account (PNA) history, and proof of insurance from [REDACTED], and [REDACTED]. The verifications were due back by [REDACTED] 2022. (*Exhibit 10, Exhibit 11: W1348 [REDACTED]/22*)
13. On [REDACTED] 2022, the Conservator submitted proof of the Applicant's gross monthly pension to the Department. She stated that she was having difficulty retrieving the Applicant's spouse's pension verification because he was hospitalized, and she requested an extension. (*Exhibit 12: Email [REDACTED]/22 and Pension Statement*)
14. On [REDACTED] 2022, the Department reviewed the documents that it received on [REDACTED] 2022, and issued the sixth W1348 for the following verifications: copy of the marriage certificate, proof of PNA account history, life insurance face and cash surrender values from [REDACTED], a mortgage statement, and a copy of the funeral contract. The verifications were due back by [REDACTED] 2022. (*Exhibit 13: W1348 [REDACTED] 22*)
15. On [REDACTED] 2022, the Department reviewed documents it received from the Conservator, which included the marriage certificate, a mortgage statement, her spouse's Social Security benefit statement, and the spouse's life insurance information. The Department issued the seventh W1348 for the following verifications: copy of the Applicant's birth certificate, social security card, spouse's Medicare card, proof of spouse's gross pension from [REDACTED] cash and face values for [REDACTED] life insurance policies, and a copy of all funeral contracts. The verifications were due back by [REDACTED] 2022. (*Exhibit 15: W1348 [REDACTED]/22*)
16. On [REDACTED] 2022, the Department received an email from the Conservator with copies of the Applicant's pension statement, her spouse's social security card and Medicare card, and registrations for two vehicles. The Conservator requested an extension as she needed additional time to obtain other verifications that the Department had requested. (*Exhibit 16: Email and documents received [REDACTED]/22*)
17. On [REDACTED] 2022, the Department received an email from [REDACTED], Attorney for the Facility, informing that the Applicant passed away on [REDACTED] 2022, and that the conservatorship of Attorney [REDACTED] had ceased. [REDACTED] stated that a new executor was being appointed, and that probate court action was necessary for the purpose of issuing subpoenas to acquire financial records from the Applicant's spouse. She requested an extension and emailed the Department a copy of the Applicant's death certificate on [REDACTED] 2022. (*Exhibit 17: Emails and Death Certificate*)

18. On [REDACTED], 2022, the Department reviewed all documents that had been received to date and issued the eighth W1348 for the following verifications: proof of income from [REDACTED] copies of tax forms from [REDACTED], proof of face and cash values for [REDACTED] life insurance policies, and a copy of all funeral contracts. The verifications were due back on [REDACTED], 2022. (*Exhibit 18: W1348 [REDACTED]/22*)
19. On [REDACTED] 2022, the Department received an email from [REDACTED] requesting another extension because a hearing for the appointment of Administrator of the Estate was scheduled for [REDACTED] 2023. [REDACTED] explained in her email that “upon issuing a decree of appointment (which often happens a week or two after the hearing – give or take a few days), the administrator would then be able to use the decree to obtain information necessary to complete her Medicaid application and/or begin the steps to try to compel her husband to cooperate. We are requesting an extension that will permit enough time for the appointment of an administrator, the issuance of the decree, time for the administrator to get a handle on the estate and an understanding of the issues and begin to work on the Medicaid application for the Applicant”. (*Exhibit 19: Email [REDACTED] 22*)
20. On [REDACTED], 2023, the Department issued the ninth W1348 requesting the following verifications: proof of income from [REDACTED] tax forms for [REDACTED], proof of face and cash values for [REDACTED] life insurance policies, and copy of funeral contracts. The verifications were due back by [REDACTED], 2023. (*Exhibit 20: W1348 [REDACTED] 23*).
21. On [REDACTED] 2023, the Department received an email from [REDACTED] requesting an extension because the court had still not appointed an Administrator of the Applicant’s estate. [REDACTED] provided the Court of Probate Notice of Hearing as proof that the hearing was scheduled for [REDACTED] 2023. On [REDACTED], 2023, the Department emailed [REDACTED] in response and stated “Noted. I will send out another request shortly.” [REDACTED] responded, “Please send it to me and I will make note of the new date.” (*Exhibit 21: Email [REDACTED]/23 and Court of Probate Notice of Hearing, Exhibit 22: Email [REDACTED] 23*)
22. On [REDACTED] 2023, the Department received an email from [REDACTED] stating that the hearing for the appointment of the Applicant’s Administrator had been continued to [REDACTED] 2023, and she requested another extension. [REDACTED] provided a copy of the Court of Probate Notice of Hearing as proof of the hearing date. (*Exhibit 23: Email [REDACTED]/23 and Court of Probate Notice of Hearing*)
23. On [REDACTED] 2023, the Department issued an NOA denying the Applicant’s application for Medicaid LTCF for failure to provide all verifications by the requested due date. (*Hearing Summary, Department’s Testimony, NOA [REDACTED] 23*)
24. The issuance of this decision is timely under Connecticut General Statutes 17b-61(a), which requires that the agency issue a decision within 90 days of the request for an

administrative hearing. The Appellant requested an administrative hearing on [REDACTED], 2023, and OLCRAH scheduled the hearing for [REDACTED] 2023. The Appellant then requested to reschedule the hearing. OLCRAH held the administrative hearing on [REDACTED] 2023. The hearing record was further delayed an additional [REDACTED] days for the Appellant to submit additional information, which caused a [REDACTED] day delay. Because of this [REDACTED] day delay, this decision is due [REDACTED] 2023.

### **CONCLUSIONS OF LAW**

1. Section 17b-2 of the Connecticut General Statutes 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-261b(a) of the Connecticut General Statutes provides that 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.

Section § 17b-261a(d)(1) of the Connecticut General Statutes 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 Applicant was an institutionalized individual of a long-term care facility who 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.

Section § 17b-261(a) of the Connecticut General Statutes 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 Applicant'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)).

UPM §1010 provides that 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-1348 Requests for Proofs requesting documentation required to establish eligibility for the Medicaid LTCF program.**

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.

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 Applicant's authorized representatives supplied at least one item of verification within each extension period.**

5. 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 § 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 § 1555.10(B)(2) provides that good cause may include, but is not limited to:

- a. illness
- b. severe weather
- c. death in the immediate family
- d. other circumstances beyond the unit's control.

**The Applicant passed away during the application process, and the court delayed the appointment of the Administrator of the Estate. These circumstances caused difficulties and delays for the Applicant's representatives when attempting to obtain verifications for the Department.**

**The Department received a request for another extension from the Attorney for the Facility and failed to grant another extension for the submission of additional information.**

**The Department incorrectly denied the Applicant's application for LTCF because it failed to grant an extension, as well as good cause for failure to submit information by the requested due date.**

### DISCUSSION

On [REDACTED] 2023, the Facility's attorney requested that the Department give an extension for providing the requested verifications because the court had postponed the date for the appointment of the Applicant's Administrator of the Estate. The court's postponement was a circumstance that was beyond the attorney's control and good cause should have been recognized by the Department.

On [REDACTED], 2023, the Department acknowledged the attorney's request for an extension and responded that it would be issuing the attorney a new request for verifications. The Department was misleading in its response to the attorney, making it seem as though it had granted another extension and that it would be issuing another W1348. The Department never issued the new request for verifications, and it did not



give an extension. Instead, on [REDACTED], 2023, the Department incorrectly denied the Applicant's application for Medicaid LTCF services.

**DECISION**

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

**ORDER**

- 1) The Department is ordered to reopen the Applicant's Medicaid LTCF application effective [REDACTED] [REDACTED] 2021, and continue processing to determine eligibility.
- 2) Compliance is due to the undersigned no later than 7 days from the date of this decision.

*Kristin Haggan*  
Kristin Haggan  
Hearing Officer

PC: [REDACTED], Applicant's Spouse  
Sarah Chmielecki, SSOM, New Haven DSS  
Ralph Filek, SSOM, New Haven DSS  
Tim Latifi, SSOM, New Haven DSS

### **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.