

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 # ██████████

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████, 2022, the Department of Social Services (the “Department”) sent ██████████ (the “Appellant”) an Application Update letter informing her that eligibility for her HUSKY C Long-Term Care Medicaid application had not yet been determined.

On ██████████, 2023, ██████████, the Appellant’s Power of Attorney (“POA”), requested an administrative hearing to contest the Department’s delay in processing the Appellant’s HUSKY C Long-Term Care 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, the Appellant’s legal counsel, ██████████, (the “Attorney”), requested to reschedule the administrative hearing.

On [REDACTED], 2023, the OLCRAH issued a notice, rescheduling the administrative hearing for [REDACTED], 2023.

On [REDACTED], 2023, in accordance with sections 17b-60, 17b-61, and 4-176e to 4-184, inclusive of the Connecticut General Statutes, the OLCRAH held an administrative hearing. The following individuals were present at the hearing:

[REDACTED], Appellant's counsel, [REDACTED],  
[REDACTED], Paralegal, [REDACTED]  
[REDACTED], Appellant's Power of Attorney  
[REDACTED], Appellant's spouse  
[REDACTED], Appellant's son  
Brandy Chambers, Department's Representative  
Joseph Davey, Administrative Hearing Officer

The Appellant did not attend the hearing; she was represented by her legal counsel and Power of Attorney.

### **STATEMENT OF THE ISSUE**

The issue is whether the Department correctly delayed processing the Appellant's Husky C Long-Term Care Medicaid application.

### **FINDINGS OF FACT**

1. On [REDACTED], 2022, the Appellant was admitted to the [REDACTED] nursing facility in [REDACTED], CT. (Department's Exhibit 1: W-1LTC Long-Term Care/Waiver Application date stamped [REDACTED])
2. On [REDACTED], 2022, the Appellant submitted a W-1LTC Long-Term Care/Waiver Application form to the Department requesting medical benefits for a household of one. (Department's Exhibit 1)
3. The Appellant was [REDACTED] ([REDACTED]) years old at the time of application [DOB [REDACTED].] (Department's Exhibit 1)
4. The Appellant is married and her spouse ([REDACTED]) lives in the community at [REDACTED] in [REDACTED], CT. (Department's Exhibit 1)
5. The Appellant is disabled and receives \$1450.30 per month in Social Security retirement benefits. (Department's Exhibit 1)

6. On [REDACTED], 2022, the Department issued a W-1348LTC Verification We Need form (“W-1348LTC”) requesting the Appellant provide a copy of her “Power of Attorney for [REDACTED] [REDACTED] and w298 for the law office of [REDACTED]”, bank statements for all existing accounts for herself and her spouse from “[REDACTED] 2017, 18, 19 and [REDACTED]/2020 to present/close”, proof of the face and cash surrender values for the Appellant’s [REDACTED] Insurance policies, proof of the Appellant’s spouse’s “rent or mortgage, property taxes and homeowner’s insurance premium or renter’s insurance.” The due date for the information was listed as [REDACTED], 2022. (Department’s Exhibit 2: W-1348LTC Verification We Need form dated [REDACTED])
7. On [REDACTED], 2022, the Attorney submitted at least one piece of the requested information before the [REDACTED], 2022, due date. The Department received the information on [REDACTED], 2022. (Appellant’s Exhibit 2: Hearing summary from Attorney [REDACTED] [REDACTED], Appellant’s Exhibit 4: Response to generic W-1348 dated [REDACTED], Hearing Record)
8. On [REDACTED], 2022, the Department sent the Appellant a W-1019N Application Update letter informing her that her eligibility for Husky C Long-Term Care Medicaid had not yet been determined. (Appellant’s Exhibit 2, Hearing Record)
9. On [REDACTED] [REDACTED], 2022, the Attorney submitted additional information to the Department. (Appellant’s Exhibit 5: Additional items sent voluntarily on [REDACTED])
10. On [REDACTED], 2022, the Attorney sent a letter to the Department requesting an update on the status of the Appellant’s application. (Appellant’s Exhibit 6: First formal Attorney Letter to DSS dated [REDACTED])
11. On [REDACTED], 2022, the Attorney requested an administrative hearing to dispute the Department’s delay in processing the Appellant’s HUSKY C Long-Term Care application. The administrative hearing was scheduled for [REDACTED], 2022. (Appellant’s Exhibit 7: Request for fair hearing dated [REDACTED], Appellant’s Exhibit 8: Notice of Administrative Hearing dated [REDACTED])
12. The Department did not take any action on the Appellant’s application after it sent out the [REDACTED], 2022, W-1019N Application Update Notice, or issue a W-1348LTC in response to information submitted by the Attorney. (Hearing Record)
13. On [REDACTED], 2022, the Department issued a W-1348LTC requesting the Appellant provide one month of her spouse’s wage stubs, “1099/1040 tax forms (incl all schedules) 2017-thru current”, proof of gross pensions amounts for the Appellant and her spouse, all bank statements for the Appellant and her spouse from “[REDACTED] 2017, 2018, 2019 and [REDACTED]/2020 to present/close”, [REDACTED] 2017 and [REDACTED] 2018 statements or opening statement for [REDACTED] IRA ending in [REDACTED], statements from [REDACTED]-[REDACTED] for [REDACTED] IRA ending in [REDACTED], cash surrender value of [REDACTED] account [REDACTED], proof of the Appellant’s spouse’s “rent or

mortgage, property taxes and homeowner's insurance premium or renter's insurance" and verification of all transfers "listed on the worksheet" for the following accounts: [REDACTED] checking ending [REDACTED], [REDACTED] checking ending [REDACTED], [REDACTED] checking ending [REDACTED], [REDACTED] checking ending [REDACTED], [REDACTED] savings ending [REDACTED], [REDACTED] savings ending [REDACTED], [REDACTED] IRA ending [REDACTED], [REDACTED] IRA ending [REDACTED], [REDACTED] IRA ending [REDACTED], [REDACTED] IRA ending [REDACTED], and [REDACTED] IRA ending [REDACTED]. The due date for the information was listed as [REDACTED], 2022. (Department's Exhibit 3: W-1348LTC Verification We Need form dated [REDACTED])

14. On [REDACTED], 2022, the Attorney withdrew the administrative hearing scheduled for [REDACTED], 2022, citing that the W-1348LTC issued by the Department on [REDACTED], 2022, "satisfies the issues at hand and so there is no need to pursue a fair hearing at this time." (Appellant's Exhibit 9: Formal request to withdraw the fair hearing scheduled for [REDACTED] dated [REDACTED])
15. On [REDACTED], 2022, the Attorney submitted at least one piece of the requested information before the [REDACTED], 2022, due date. The Department received the information on [REDACTED], 2022. (Appellant's Exhibit 2: Hearing summary from Attorney [REDACTED], Appellant's Exhibit 11: Response to W-1348 dated [REDACTED], Hearing Record)
16. On [REDACTED], 2023, and [REDACTED], 2023, the Attorney submitted additional information to the Department. (Appellant's Exhibit 12: Additional items sent [REDACTED], Appellant's Exhibit 13: Additional items sent [REDACTED])
17. ON [REDACTED], 2023, the Attorney sent a letter to the Department outlining the information they had submitted to date and requesting that action be taken on the Appellant's case. (Appellant's Exhibit 15: Second formal Attorney Letter to DSS dated [REDACTED])
18. On [REDACTED], 2023, the POA requested an administrative hearing to dispute the Department's delay in processing the Appellant's HUSKY C Long-Term Care application. The administrative hearing was scheduled for [REDACTED] [REDACTED], 2023. (Appellant's Exhibit 16: Request for fair hearing dated [REDACTED], Appellant's Exhibit 17: Notice of Administrative Hearing dated [REDACTED])
19. The Department did not issue another W-1348LTC or take any action on the Appellant's application in response to information submitted by the Attorney on [REDACTED], 2023, [REDACTED], 2023, and [REDACTED], 2023, or the letter sent on [REDACTED], 2023. (Hearing Record)

20. On [REDACTED], 2023, the Department issued a W-1348LTC requesting the Appellant provide all bank statements for the Appellant and her spouse from “[REDACTED] 2017, 2018, 2019 and [REDACTED]/2020 to present/close”, verification of [REDACTED] withdrawal of \$12,095.12 and [REDACTED] 2017 and 2018 (or opening) statements from [REDACTED] IRA ending in [REDACTED], verification of \$214,092.81 deposit for [REDACTED] IRA ending in [REDACTED], statements from [REDACTED]/2022 and [REDACTED]/2022 for [REDACTED] IRA ending in [REDACTED], verification of [REDACTED]/2021 deposit of \$5000.00 into [REDACTED] checking ending [REDACTED], verification of \$64,072.19 withdrawal from [REDACTED] checking ending [REDACTED], verification of \$110,000.00 withdrawal appearing on statement period [REDACTED]/2018-[REDACTED]/2018 from [REDACTED] IRA ending [REDACTED], verification of [REDACTED]/2021 withdrawal of \$62,522.00 from [REDACTED] IRA ending [REDACTED], verifications of withdrawals made from [REDACTED] IRA ending [REDACTED] on [REDACTED]/21, [REDACTED]/21, and [REDACTED]/22 in the amount of \$100,000.00, \$80,000.00, and \$46,539.27, respectively. The due date for the information was listed as [REDACTED], 2023. (Department’s Exhibit 4: W-1348LTC Verification We Need form dated [REDACTED])
21. On [REDACTED], 2023, the Attorney requested that the administrative hearing scheduled for [REDACTED], 2023, be rescheduled. (Appellant’s Exhibit 19: Request to postpone the [REDACTED] fair hearing)
22. On [REDACTED], 2023, the OLCRAH rescheduled the administrative hearing for [REDACTED], 2023. (Appellant’s Exhibit 20: Notice of administrative hearing dated [REDACTED])
23. On [REDACTED], 2023, the Attorney submitted at least one piece of the requested information before the [REDACTED], 2023, due date. (Appellant’s Exhibit 21: Response to W-1348 due [REDACTED], sent [REDACTED])
24. On [REDACTED], 2023, the Attorney submitted additional information to the Department. (Appellant’s Exhibit 22: Additional items sent [REDACTED])
25. As of [REDACTED], 2023, the date of the administrative hearing, the Department has not issued another W-1348LTC or taken any action. The Appellant’s application for HUSKY C Long-Term Care Medicaid remains pending. (Hearing Record)

The issuance of this decision is timely under Connecticut General Statutes (“Conn. Gen. Stat.”) §17b-61(a), which requires that a decision be issued within [REDACTED] days of the request for an administrative hearing. The Appellant requested an administrative hearing on [REDACTED], 2023. The hearing, which was scheduled for [REDACTED], 2023, was rescheduled for [REDACTED], 2023, at the request of the Appellant’s Attorney, which caused a [REDACTED]-day delay. The decision is, therefore, due no later than [REDACTED], 2023. (Hearing Record)

## **CONCLUSIONS OF LAW**

1. Section 17b-2 and § 17b-260 of the Connecticut General Statutes authorizes the Department of Social Services to administer the Medicaid program pursuant to Title XIX of the Social Security Act.

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. 2 d 712 (1990)."

UPM § 2540.88 (A) provides that the L01 coverage group includes individuals who: This group includes residents of long term care facilities (LTCF), who: 1. meet the categorical requirements of age, blindness or disability, and 2. reside in the LTCF for at least thirty (30) consecutive days; and 3. have income below a special income level.

**The Department has the authority to determine eligibility under the L01 coverage group.**

2. UPM § 1505.35 (A) provides that prompt action is taken to determine eligibility on each application filed with the Department.

UPM § 1540.10 (A) provides that 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. The assistance unit bears the primary responsibility for providing evidence to corroborate its declarations.

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 that the Department requires to determine eligibility and calculate the amount of benefits.

UPM § 1015.05 (C) provides that the Department must tell the assistance unit what to do to establish eligibility when the Department does not have sufficient information to make an eligibility determination.

**The Department correctly sent the Appellant more than one W-1348LTC requesting information needed to establish eligibility.**

**The Appellant submitted all pertinent verifications timely to the Department.**

**The Department did not take any action on the Appellant's application after the [REDACTED], 2023, submission of verifications.**

**After the [REDACTED], 2023, submission of verification, the Department failed to tell the Appellant what needed to be done in order to make a determination of eligibility.**

3. UPM § 1505.35 (C)(c)(2) provides that 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 (D)(2)(a)(b) 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)(5)(b) which provides that 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)(1)(2) provides that regardless of the standard of promptness, no eligibility determination is made when there is insufficient verification to determine eligibility when the Department has requested verification and at least one item of the verification has been submitted by the assistance unit within the time period designated by the Department, but more is needed.

UPM § 1505.35 (B) provides that the Department notifies the applicant of any actions taken on applications; and when applications are not acted upon within the established time limits.

**The Appellant correctly submitted at least one item of verification for each of the W-1348LTC's issued by the Department before the established due date.**

**The Department failed to provide the Appellant with any subsequent requests for information after the Appellant's [REDACTED] [REDACTED], 2023, submission of verifications.**

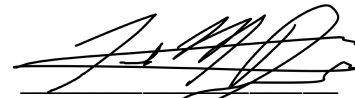
**The Department failed to process the Appellant's application within forty-five calendar days of the date of application.**

## DECISION

The Appellant's appeal is GRANTED.

## ORDER

1. The Department shall review the information submitted by the Appellant and determine if an eligibility decision can be reached.
2. If any information is deemed necessary to complete the application, the Department will issue a W-1348LTC Verification We Need form and allow the Appellant (10) days to provide verification.
3. The Department will complete the processing of the Appellant's application and issue a Notice of Action.
4. The Department shall demonstrate compliance with this order no later than (14) days from the date of this decision. Verification of compliance shall be sent to the undersigned via email confirmation.



Joseph Davey  
Administrative Hearing Officer

Cc: Brandy Chambers, Department's Representative, New Haven Regional Office  
Sarah Chmielecki, SSOM, New Haven Regional Office  
Tim Latifi, SSOM, New Haven Regional Office  
Ralph Filek, SSOM, New Haven 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 requested 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 the 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 the 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 to 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 following §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.