

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

██████████
Signature Confirmation

Client ID ██████████
Case ID ██████████
Request # 216743

NOTICE OF DECISION

PARTY

██████████
For: ██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") and ██████████ the Authorized Representative ("the AREP") a Notice of Action ("NOA") denying his application for benefits under the Husky C – Long Term Care Facility Residents – Spend-down ("Husky C") effective ██████████.

On ██████████, ██████████, the Appellant's "AREP" requested an administrative hearing on behalf of the Appellant to contest the Department's decision to deny the Appellant's application for Husky C.

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

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

The following individuals appeared for the administrative hearing:

██████████, Authorized Representative for the Appellant
Michelina Zogby, Department Representative

Shawn P. Hardy, Fair Hearing Officer

The Appellant did not attend the administrative hearing on [REDACTED], because he is institutionalized.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's [REDACTED], decision to deny the Appellant's application for medical benefits under the Husky C program effective [REDACTED], was correct.

FINDINGS OF FACT

1. The Appellant is [REDACTED] years old. (DOB [REDACTED]) (Hearing Record, Exhibit 1: Online application (ONAP) [REDACTED])
2. The Appellant is a resident of [REDACTED] (the "facility"), a skilled nursing facility. (Hearing record)
3. On [REDACTED], the Department received an application requesting Medical benefits, Long-term Services and Support, and Medicare Savings Program under the Husky C program from the AREP on behalf of the Appellant. (Hearing record, Exhibit 1)
4. [REDACTED] [REDACTED] the AREP is the Medicaid Filing Representative for [REDACTED] based out of [REDACTED]. (Exhibit 1)
5. On [REDACTED], the Department issued the AREP via email with an attachment of a W-1348LTC Verification We Need ("W-1348LTC") Request # 4 form. The email stated the following: "Hi [REDACTED] – Enclosed is the latest checklist for [REDACTED]". The Department requested the following items listed below and listed the due date for the requested items as [REDACTED].
 - Copy of Power of Attorney or Conservator documents if any
 - Verification of gross pension
 - Bank of America acct [REDACTED] – please continue to send most current statement.
 - Bank of America acct [REDACTED] – please return statements from [REDACTED] to current date.
 - Bank of America [REDACTED] – full lookback required
 - Verify total assets are below \$ [REDACTED].

(Exhibit 4: Email correspondence [REDACTED], Exhibit 7: W-1348LTC Verification We Need [REDACTED])

6. The AREP acknowledged receipt of the email and attachment of W-1348LTC #4 on [REDACTED] at 4:27pm with a response "Good afternoon, [REDACTED]. Thank you. I hope you have a blessed weekend." (Exhibit 4)
7. On [REDACTED], the Department denied the Appellant's application for Husky C effective [REDACTED], because the AREP on behalf of the Appellant failed to send in proof listed on W1348LTC Request #4 by the [REDACTED], due date. (Department Representative's Testimony, Exhibit 7, Exhibit 8: Notice of Action [REDACTED])
8. The AREP did not request that the Department assist with getting the requested information or request an extension. (AREP's Testimony)
9. On W-1348LTC #4 under the section Did you apply for help? States the following: "You applied on [REDACTED]. We will take action on your application no later than [REDACTED]. If you do not give us any required proof of if you do not ask for more time by [REDACTED], then we may deny your application". (Exhibit 7)
10. During the hearing the AREP stated her version of W-1348LTC #4 received by email on [REDACTED] was different from the version that was accompanied with the hearing summary. The AREP stated her version that was received via email did not include a request for bank statements from Bank of America for accounts # [REDACTED] & # [REDACTED]. (AREP's Testimony)
11. This Hearing Officer instructed the AREP to forward a copy of the version in question. The AREP was given this hearing officer's email address and was instructed to submit a copy to the Department as well. The AREP stated she would provide the document that same day. The hearing record remained open until the Close of Business on [REDACTED]. (Stipulated)
12. On [REDACTED], at the conclusion of the Administrative Hearing an email along with a PDF attachment #4 was received at 12:04pm from the AREP. The email stated "Good morning, Please find attached the Request #4 that I received. I received this request three times." (Stipulated)
13. This Hearing Officer was unable to open PDF attachment #4. The following message appeared stating "Adobe Acrobat Reader could not open #4.pdf because it is either not a supported file type or because the file has been damaged." (Stipulated)
14. On [REDACTED], at 12:16pm this Hearing Officer replied all to the original email received by the AREP with the following message "Good afternoon, I'm unable to open the attachment. Can you forward me the emails that you received from the Department on [REDACTED]." (Stipulated)

15. The AREP failed to submit to the Department and this Hearing Officer the requested questionable document by the close of business on [REDACTED]. (Stipulated)
16. The issue 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]. Therefore, this decision is not due until [REDACTED], and therefore timely.

CONCLUSIONS OF LAW

1. Section 17b-2(6) of the Connecticut General Statute ("Conn. Gen. Stat.") provides as follows:

The Department of Social Services is designated as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.

"The Department of Social Services shall be the sole agency to determine eligibility for assistance and services under programs operated and administered by said department." Conn. Gen. Stat. § 17b-261b(a)

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

3. Section 1500.01 of the Uniform Policy Manual ("UPM") defines "the application process as all activity related to the exploration, investigation and disposition of an application beginning with the filing of an assistance request and ending with the disposition of the application."

"The application process outlines the general methods and requirements used in obtaining assistance and in determining an assistance unit's initial eligibility. The application process is essentially the same for all programs. It is designed to provide aid in a prompt and efficient manner to those who request assistance." UPM § 1505

4. "An assistance unit may be represented in various aspects of the eligibility by a responsible individual who has been given prior authorization to act as the assistance unit's representative." UPM § 1525.05(A)

Department policy provides as follows:

In order to be an authorized representative a person must be a responsible individual who is:

- a. eighteen years of age or older; and
- b. sufficiently familiar with circumstances of the assistance unit.

UPM § 1525.10(A)(1)

“An authorized representative must be designated in writing by one the following individuals: in the AABD and MA programs, by the applicant, or if the applicant is a child, incompetent or incapacitated, by the parent, custodian, or court appointed fiduciary.” UPM § 1525.05(C)(2)

“The following individuals are qualified to request cash or medical assistance, be interviewed and, complete the application process on the behalf of others who they represent: a conservator, guardian or other court appointed fiduciary.” UPM § 1505.15(C)(3)

The Department correctly determined the representative with [REDACTED] as the Appellant’s authorized representative during the Husky C application process.

5. “All applicants are required to complete an application form, except as noted below in § 1505.10(A)(3).” UPM § 1505.10(A)

The Department correctly determined the AREP completed an application form requesting medical benefits under the Husky C program on behalf of the Appellant.

6. “The date of application is the date a formal written request for assistance is filed with the Department in accordance with the rules established for the program for which application is made.” UPM § 1500.01

“For AFDC, AABD, and MA applications, except for the Medicaid coverage groups noted below in § 1510.10(D)(2), the date of application is considered to be the date that a signed application form is received by any office of the Department.” UPM § 1505.10(D)(1)

The Department correctly determined the date of application as [REDACTED].

7. UPM § 3029.05(C)

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 W1348LTC #4 outlined the requirements to be eligible for Medicaid.

The W1348LTC #4 outlined the Appellant's rights and responsibilities and how to contact the Department with any questions.

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 § 1015.05(C)

On [REDACTED], the Department correctly issued the AREP a W-1348LTC Request #4 with a due date of [REDACTED]. The document informed the AREP of what verification was needed in order to make a determination of the Appellant's eligibility under the Husky C program.

- Copy of Power of Attorney or Conservator documents if any
- Verification of gross pension
- Bank of America acct # [REDACTED] – please continue to send most current statement.
- Bank of America acct [REDACTED] – please return statements from [REDACTED] to current date.
- Bank of America # [REDACTED] – full lookback required
- Verify total assets are below \$ [REDACTED].

8. "UPM § 1010

The assistance unit, by the act of applying for or receiving benefits, assumes certain responsibilities in its relationship with the Department. This chapter describes those responsibilities which an assistance unit assumes when it applies for or receives benefits from the Department."

9. 1010.05(A)(1)

"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 §

The AREP did not submit the requested proof to the Department by the due date of [REDACTED].

The AREP did not request an extension of time to submit the requested verification.

The AREP did not request assistance from the Department with getting the requested verification.

10. UPM § 1540.10

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 Department did not receive any verification to accurately make a determination of eligibility.

11. UPM § 1540.10(A)

The assistance unit bears the primary responsibility for providing evidence to corroborate its declarations.”

The AREP acknowledged receipt of the email on [REDACTED] from the Department containing the attachment of W-1348LTC #4.

12. UPM § 1540.15(B)(1)

“Documents are the primary sources of verification whenever such evidence can be acquired.”

The AREP did not contact the Department regarding having trouble acquiring the requested verification.

13. UPM § 1540.15(B)(2)

“The Department accepts any document which it feels clearly establishes the veracity of the unit’s declarations without restricting the evidence to any one particular type of document.”

The AREP did not submit the requested proof to the Department by the due date of [REDACTED].

The AREP did not submit the version of W-1348#4 in question to the Department or Hearing Officer.

DISCUSSION

The AREP testified that the request for bank statements from Bank of America for accounts # [REDACTED] # [REDACTED] were missing from the version of W1348LTC #4 she received via email from the Department on [REDACTED]. Everything else matched with the version submitted with the hearing summary.

- Copy of Power of Attorney or Conservator documents if any
- Verification of gross pension
- Bank of America acct # [REDACTED] – please continue to send most current statement.
- Verify total assets are below \$ [REDACTED]

The Appellant failed to submit any verification of the remaining requested items to the Department by the due date of [REDACTED].

DECISION

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

Shawn P. Hardy

Shawn P. Hardy
Hearing Officer

CC: Katarzyna Olechowska, SSOM RO #60
Randalynn Muzzio, SSOM RO #60
Alex Sirois, SSOM RO #60
Michalina Zogby, FH Liaison RO #20

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.