

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

████████████████████
SIGNATURE CONFIRMATION

CLIENT ID # ██████████
CASE # ██████████
REQUEST # 230989

NOTICE OF DECISION

PARTIES

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PROCEDURAL BACKGROUND

On ██████████, legal counsel ██████████ (the “Attorney”) for Power of Attorney ██████████ (the “Appellant”) requested an administrative hearing on behalf of ██████████ (the “Applicant”) to contest the Department of Social Services’ (the “Department”) delay in processing the Applicant’s HUSKY C Long-Term Services and Support (“LTSS”) Medicaid application.

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

On ██████████, the Attorney requested to reschedule the administrative hearing.

On ██████████, the OLCRAH issued a notice rescheduling the administrative hearing for ██████████.

On ██████████, 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 at the ██████████ regional office.

The following individuals participated in the hearing:

██████████, the Appellant and the Applicant's son and POA, via telephone
 Attorney ██████████, legal counsel for the POA
 Sayidah Moss, Department Representative
 Sara Hart, Hearing Officer

The Applicant was not present at the administrative hearing and was represented by the Appellant and his legal counsel.

STATEMENT OF THE ISSUE

The issue is whether the Department correctly delayed processing the Applicant's HUSKY C LTSS Medicaid application.

FINDINGS OF FACT

1. On ██████████, ██████████, a skilled nursing facility, admitted the Applicant. (*Hearing Record*)
2. The Applicant is age ███ (DOB ██████████) and widowed. The Applicant's spouse passed away on ██████████. (*Exhibit 1: W1LTSS*)
3. On ██████████, the Department received a W1LTSS application requesting HUSKY C LTSS Medicaid coverage on behalf of the Applicant. (*Exhibit 1, Hearing Record*)
4. The Attorney provided the following documents with the completed W1LTSS: Birth Certificate, Social Security Card, Death Certificate for ██████████, ██████████, Identification Card, Medicare Card, ██████████ Insurance Premium Notice, VA DD-214, SSA income, ██████████ Pension, ██████████ Medicare Reimbursement, Savings Bond, Listing of transactions of \$5000+, statements for ██████████, ██████████, ██████████ and ██████████ through ██████████, for ██████████ account ██████████, ██████████ ██████████ Resident account, Prepaid Funeral Contract, ██████████, ██████████, ██████████, ██████████ Tax Returns, ██████████ Trust, ██████████, ██████████, ██████████, ██████████ Tax Returns for the ██████████ Trust, statements for ██████████ ██████████ and ██████████, through ██████████, for ██████████ accounts ██████████ and ██████████ and statements for ██████████ ██████████, ██████████, ██████████, and ██████████, through ██████████, for ██████████ account ██████████. (*Exhibit 2: ██████████ ██████████, Cover Letter, Department's Testimony*)

5. On [REDACTED], the Department issued a W1348LTC Verification We Need form ("W1348LTC") to the Attorney and the Appellant requesting the following: General Information: *copy of Social Security Card, Birth Certificate, or State Issued ID*; Assets: *For all accounts (including those listed below), provide statements as indicated. For all transactions of \$5000 or more, provide copies of bills, receipts or canceled checks to show what the transactions were for. For deposits of \$5000 or more, prove the origin of the funds, i.e. other accounts, sale of property or liquidation of other asset(s).* [REDACTED] bank statements for account no. [REDACTED] for [REDACTED] Current. The form provided a due date of [REDACTED]. (Exhibit 3: W1348LTC Request #1 [REDACTED])
6. On [REDACTED], the Attorney responded to the Department and provided the requested documents. (Exhibit A: Timeline [REDACTED], Hearing Summary)
7. On [REDACTED], the Attorney contacted the Department requesting an update on the Applicant's HUSKY C LTSS Medicaid application. (Exhibit A)
8. On [REDACTED], the Attorney requested an administrative hearing contesting the Department's delay in processing the Applicant's HUSKY C LTSS Medicaid application. (Hearing Record)
9. On [REDACTED], the Department issued a second W1348LTC to the Attorney and the POA requesting the following: Assets: *Trusts held by or for the benefit of you and /or your spouse: Please provide copies of the Insurance policies that were transferred to the trust.* The form indicated a due date of [REDACTED] (Exhibit 4: W1348LTC Request #2 [REDACTED])
10. On [REDACTED], the Attorney responded to the Department noting that funding of the trust occurred in [REDACTED], when the spouse passed away, and outside of the lookback period. (Exhibit A, Department Testimony, Attorney Testimony)
11. The [REDACTED] Trust was established on [REDACTED]. (Exhibit 5: [REDACTED] Trust)
12. On [REDACTED], the Attorney contacted the Department requesting a status update on the Applicant's HUSKY C LTSS Medicaid application. (Exhibit A)
13. The Department did not take any action on the Applicant's application after issuing the second W1348LTC on [REDACTED]. (Hearing Record)
14. The Applicant's HUSKY C LTSS Medicaid application is pending a Departmental review of the [REDACTED] Trust and tax returns, which the Department received on [REDACTED]. (Department's Testimony, Hearing Record)

15. As of the [REDACTED], administrative hearing date, the Applicant's HUSKY C LTSS Medicaid application remains pending an eligibility determination. (*Hearing Record, Department Testimony*)
16. The hearing record lacks evidence of a Department issued notice regarding the status of the Applicant's HUSKY C LTSS Medicaid application. (*Hearing Record*)
17. The issuance of this decision is timely under Connecticut General Statutes §17b-61(a), which requires that the Department render a decision within 90 days of the request for an administrative hearing. The Appellant requested an administrative hearing on [REDACTED], with this decision due [REDACTED]. The original hearing was scheduled for [REDACTED], and rescheduled to [REDACTED] at the Appellant's representative's request, resulting in a 25-day delay. therefore, this decision is due no later than [REDACTED].

CONCLUSIONS OF LAW

1. Section 17b-2(6) of the Connecticut General Statutes provides that 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.

Section 17b-260 of the Connecticut General Statutes 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

"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)).

The Department has the authority to administer and determine eligibility for the Medicaid program.

2. UPM § 3029.05(B)(2)(a) provides that an individual is considered institutionalized if he or she is receiving LTCF services.

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 is an institutionalized individual in a long-term care facility.

3. UPM § 1500.01 provides that the date of the 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 the application is made.

UPM § 1505.10(D)(1) provides for filing an application. 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.

The Department correctly determined a filing date of [REDACTED], for the Applicant's HUSKY C LTSS Medicaid application.

4. UPM § 1540.10 provides for unit and agency responsibilities. 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.

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

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

UPM § 1540.10(D) provides the Department considers all evidence submitted by the assistance unit or received from other sources.

The Attorney, on behalf of the Appellant, correctly included documentary evidence with the Applicant's HUSKY C LTSS Medicaid application.

5. UPM § 1015.05(C) provides 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.

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.

The Department correctly issued a W1348LTC requesting the necessary documentation required to determine eligibility.

The Attorney, on behalf of the Appellant, correctly responded and supplied the requested information timely to the Department.

After the [REDACTED], submission of documentation, and the Attorney's [REDACTED], emailed response, the Department failed to tell the Appellant what needed to be done to determine the Applicant's HUSKY C LTSS Medicaid eligibility.

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

UPM § 1505.35(B)(1)(2) provides the Department notify applicants of any actions taken on the applications and when applications are not acted upon within the established time limits.

UPM § 1505.35(C) provides for the standard of promptness for processing applications. 1. The following promptness standards are established as maximum time periods for processing applications: (c) forty-five calendar days for: (2) AABD or MA applicants applying on the basis of age or blindness; (d) ninety calendar days for AABD or MA applicants applying on the basis of disability.

UPM § 1505.35(D)(3) provides processing standards are not used as a waiting period for granting assistance. Applications are processed with reasonable promptness as soon as the Department is able to make an eligibility determination.

UPM § 1505.35(D)(4) provides processing standards are not used as the basis for denying assistance. Denial results from the failure to meet or establish eligibility within the applicable time limit.

The Department failed to notify the Appellant of any actions taken on the Applicant's HUSKY C LTSS application and failed to provide notice when the Applicant's application was not acted upon within the established time limits.

The Department failed to determine the Applicant's HUSKY C LTSS eligibility within the established standard of promptness.

DISCUSSION

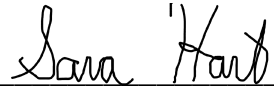
There is no evidence in the hearing record that the Department provided the Applicant or her representatives with a process delay notice, or any additional notice after the issuance of the second W1348LTC on [REDACTED]. The Attorney responded promptly to the Department's second W1348. The Department failed to follow up with an eligibility determination or further instruction regarding any additional information required and has failed to meet the required standard of promptness.

DECISION

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

ORDER

1. The Department shall review the submitted information and continue to process the application to determine eligibility.
2. If the Department needs additional information to determine eligibility, the Department must send the Appellant and the Attorney a request for additional information.
3. If no additional information is needed, the Department shall issue a Notice of Action to the Appellant and the Attorney regarding the status of the application.
4. The Department shall demonstrate compliance with this order no later than [REDACTED].



Sara Hart
Hearing Officer

Cc: Sayidah Moss, Department Representative Bridgeport Regional Office
Annjerry Garcia, Operations Manager Bridgeport Regional Office
Jamel Hilliard, Operations Manager Bridgeport Regional Office
Robert Stewart, Operations Manager Bridgeport 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 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.