

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

██████████ 2019
Signature Confirmation

CLIENT No # ██████████
Request # ██████████

NOTICE OF DECISION

PARTY

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██████████
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████████████████████

PROCEDURAL BACKGROUND

On ██████████, 2019, the Department of Social Services - ("the Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") denying her application for the Home and Community Base Services ("W01") under the Husky C Medicaid program.

On ██████████, 2019, the Appellant requested an administrative hearing to contest the Department's determination.

On ██████████ 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for April 10, 2019.

On ██████████ 2019, in accordance with sections 17b-60, 17-61 and 4-176e to 4-189 inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing.

The following individuals were present at the hearing:

██████████, Appellant
Amelia Lezon, Department's Representative
Victor Robles, Department's Representative
Almelinda McLeod, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly denied the Appellant's application for the Connecticut Home and Community Based services ("W01") under the Husky C Medicaid Program.

FINDINGS OF FACT

1. On [REDACTED] 2019, the Department received the Appellant's application for the Home and Community Based services ("W01"). (Exhibit 1, Application)
2. The Appellant is [REDACTED] years old (DOB [REDACTED]). The Appellant's spouse resides in New York and does not help her. She resides by herself. (Exhibit 1, Appellant's testimony)
3. The Appellant is wheelchair bound and has difficulty speaking. The Appellant receives Social Security disability and is disabled. (Exhibit 1, Appellant's testimony)
4. Previous to this application, the Appellant was on the Personal Care Assistance ("PCA") Waiver waiting list but was removed in [REDACTED] 2018 when her previous application for W01 was denied. (Hearing summary)
5. On [REDACTED] 2019, the Department e-mailed the contact person for the Personal Care Assistance ("PCA"), Department of Developmental Services ("DDS"), Mental Health and Autism Spectrum Disorder ("ASD") waivers to determine if the Appellant is known to any waivers program and requested to know if she is on any wait list. (Hearing summary).
6. On [REDACTED], 2019, the Supervisor of Case Management for the ASD waiver sent an e-mail to the Department stating that the Appellant was not known and was not on any wait list for their ASD program. (Exhibit 4- E-mail correspondence)
7. On [REDACTED], 2018, the contact person for Mental Health Waivers forwarded the [REDACTED] 2019 e-mail from the Department requesting mental health waiver services or wait list status to Mary Ives, another contact person. (Exhibit 4- E-mail correspondence)
8. On [REDACTED], 2019, the Fiscal / Administrative Assistance for the DDS e-mailed the Department to state that he Appellant was not known to the DDS. (Exhibit 4)

9. On [REDACTED] [REDACTED] 2019, the Public Assistance Consultant for the Department of Social Services (“DSS”) Community Options Unit e-mailed the Department and stated that the Appellant did not currently have a spot on the PCA waiting list. The Appellant was removed from the wait list in [REDACTED] 2018 because her previous application for the W01 was denied. (Exhibit 4)
10. The only waiver program offered by the Department that does not have a wait list or cap to the number of people which can be served is the Connecticut Home Care Program for Elders. (Department testimony)
11. The Department determined that the Appellant does not qualify for the Connecticut Home Care Program for Elders program because she does not meet the age requirement. (Department testimony)
12. On [REDACTED] 2019 the Department issued a Notice of Action (“NOA”) denying the Appellants application for the Home and Community Based Services because she did not meet the age requirement and was not on any Waiver waitlist. (Exhibit 2, Exhibit B- NOA)
13. On [REDACTED], 2019, the other contact person for the mental health waiver e-mailed the Department to state that the Appellant was not on the Mental Health wait list. See finding of fact # 7 (Exhibit 4)
14. The issuance of this decision is timely under Connecticut Statutes 17b-61 (a), which requires that a decision be issued within 90days of the request for an administrative hearing. The Appellant requested an administrative hearing on [REDACTED], 2019. This decision therefore was not due no later than [REDACTED] 2019.


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.
2. Uniform Policy Manual (“UPM”) § 2540.90 (A) provides the coverage group description. This group includes individuals who:
 1. Would be eligible for MAABD if residing in a long term Care facility (“LTCF”); and
 2. Qualify to receive home and community based services under a waiver approved by the Centers for Medicare and Medicaid Services; and

3. Would, without such services, require care in a LTCF.
3. UPM § 2540.92 (B) provides that individuals qualify for Medicaid as categorically needy for as long as they meet the conditions above and receive home and community based services under a waiver.
 4. Section 17b-283-3 (23) of the Regulations of Connecticut State Agencies provide in part, the definition of “waiting list” means the record maintained by the Department, after the program reaches the maximum capacity permitted under the waiver .
 5. **The Department correctly determined that the Appellant was not on a wait list for any waiver programs (Mental Health, ABI, PCA, DDS or Autism) and was not receiving any waiver services, thus does not meet the criteria for the W01 Home and Community Based services coverage group.**
 6. UPM § 8040.20 (A) (1) provides that one of the Categorical Eligibility Requirements for the Connecticut Home Care Program for Elders is Age. The individual must be 65 years of age or older.
 7. UPM 2525.15 (B) provides to meet the age requirement for State Supplement and related Medicaid based on old age, the individual must be sixty-five (65) years of age or older.
 8. **The Appellant does not meet the categorical eligibility requirements for the Connecticut Home Care Program for Elders Medicaid because she does not meet the age requirement.**
 9. **The Department correctly denied the Appellant’s application for the Medicaid under the W01 program because the Appellant does not meet the program requirements.**

DECISION

The Appellant’s appeal is DENIED.



 Almelinda McLeod
 Hearing Officer

CC: Shirlee Stoute, DSS-CO- Community Options
 Laurie Filippini, DSS-CO- Community Options
 Pamela J. Adams, DSS-CO- Community Options
 Paul Chase, DSS-CO- Community Options

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 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, 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, 55 Elm Street, 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.