

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

██████████ 2016
Signature Confirmation

Client ID#: ██████████
Hearing ID#: 713691

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

██████████ (the “Appellant”) applied for Medicaid for Low Income Adults benefits (“LIA”) on ██████████ 2015.

The Department of Social Services (the “Department”) denied the Appellant’s request for said benefits and the Appellant is aggrieved by this decision.

On ██████████ 2015, the Appellant requested an administrative hearing to contest the Department’s action.

On ██████████ 2015, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling an administrative hearing for ██████████ 2015.

On ██████████ 2015, OLCRAH sent a notice of rescheduled hearing to the Appellant. Her hearing was rescheduled to ██████████ 2015.

On ██████████ 2015, the Appellant requested that her hearing be rescheduled due to translation issues. This request was granted. On ██████████ 2015, OLCRAH sent a notice of rescheduled hearing to the Appellant. Her hearing was rescheduled to ██████████ 2015.

On ██████████ 2016, OLCRAH sent a notice of rescheduled hearing to the Appellant. Her hearing was rescheduled for ██████████ 2016.

On [REDACTED] 2016, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-189 inclusive, of the Connecticut General Statutes, the Department held an administrative hearing.

The following individuals were present at the hearing:

[REDACTED] Appellant
 [REDACTED], Translator/Friend
 [REDACTED], Appellant's Representative, [REDACTED]
 Guerline Dominique, Department's Representative
 Pamela J. Gonzalez, Hearing Officer

The hearing record was held open to allow the Department to resubmit the Appellant's medical information to Colonial Cooperative Care, Inc. Medical Review Team ("CCC") for an eligibility determination.

The record closed on [REDACTED] 2016.

STATEMENT OF THE ISSUE

The issue is whether the Department was correct to deny the Appellant's application for Emergency LIA Medicaid.

FINDINGS OF FACT

1. The Appellant, date of birth [REDACTED] 1984, is not a United States citizen. (Appellant's testimony)
2. The Appellant entered the United States from Mexico in [REDACTED] 2008. (Appellant's testimony)
3. The Appellant has no legal status in the United States. (Appellant's testimony)
4. On [REDACTED] 2014, the Appellant was emergency admitted to Hartford Hospital. (Form W-310R Emergency Medical Non-Citizen Determination-View – Department's exhibit C)
5. The Appellant's chief complaint upon admission to the hospital was abdominal pain. [REDACTED] Hospital legal medical record - Department's exhibit D)
6. On [REDACTED] [REDACTED] 2015, the Appellant underwent a laparoscopic cholecystectomy at Hartford Hospital. ([REDACTED] Hospital Discharge Summary – Appellant's exhibit d)

7. The Appellant was discharged from Hartford Hospital on [REDACTED] 2014. (Department's exhibit C)
8. On [REDACTED] [REDACTED] 2015, the Appellant applied for emergency medical assistance. (Eligibility Management System NARR screen print - Department's exhibit A)
9. On [REDACTED] 2015, a W10a was mailed to Colonial Cooperative Care ("CCC") seeking a determination regarding eligibility for emergency medical assistance for non-citizens. (Department's representative testimony)
10. CCC identified discrepancies in the date of birth information provided and requested clarification. (Department's representative's testimony)
11. In [REDACTED] 2015, in attempt to satisfy CCC's request for date of birth clarification, the Appellant provided her Mexican passport to the Department confirming her date of birth as [REDACTED] [REDACTED] 1984. ([REDACTED] [REDACTED] Notes referencing a phone contact regarding clarification of the Appellant's date of birth – Appellant's exhibit c)
12. On [REDACTED] 2015, a second W10a was sent to CCC seeking a determination regarding eligibility for emergency medical assistance for non-citizens. (W10a dated [REDACTED] 2015 – Department's exhibit B)
13. On [REDACTED] 2015, CCC issued a W310R Notice to the Department that the Appellant's eligibility is "Undetermined" due to date of birth discrepancies in the records. The same notice states that the medical information submitted does not meet the criteria for emergency services as defined in 42 CFR 440.255.b.1. and 42 CFR 440.255c(1) and is therefore not covered. (W-310R dated [REDACTED] 2015 – Department's exhibit C)
14. The Department denied the Appellant's request for emergency medical assistance for non-citizens. (Department's representative's testimony)
15. The Department's representative was unable to identify the date of application denial. (Department's representative's testimony)
16. At the hearing, the Department's representative agreed to provide verification of the date of denial and to provide a copy of its notice of denial. (Hearing record)
17. The Department failed to provide verification of the date of denial and to provide a copy of its notice of denial. (Hearing record)

18. At the hearing, the Department agreed to resubmit the Appellant's medical packet and clarifying documentation to CCC for an eligibility determination. (Department's representative's testimony)
19. The hearing record was held open to allow CCC to review the Appellant's medical data and to render an eligibility determination. The record closed on [REDACTED] 2016. (Hearing record)
20. The Department did not notify OLCRAH before the close of the record on [REDACTED] 2016, of any determination resulting from a resubmission of the Appellant's medical packet to CCC. (Hearing record)
21. On [REDACTED] 2016, OLCRAH contacted the Department's representative via E-mail to inquire what the outcome was of the resubmission to CCC. (Copy of E-mail inquiry dated [REDACTED] 2016 – Hearing Officer exhibit 1)
22. On [REDACTED] 2106, the Department's representative replied via E-mail message that CCC's final decision states undetermined. (Hearing Officer exhibit 1)

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 the Medicaid to administer the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Title 42 of the Code of Federal Regulations ("CFR") § 440.255(c)(1) provides that effective January 1, 1987, aliens who are not lawfully admitted for permanent residence in the United States or permanently residing in the United States under color of law must receive the services necessary to treat the condition defined in paragraph (1) of this section (1) if the alien has, after sudden onset, a medical condition (including emergency labor and delivery) manifesting itself by acute symptom of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:
 - (i) Placing the patient's health in serious jeopardy;
 - (ii) serious impairments to bodily functions; or
 - (iii) serious dysfunction of any bodily organ or part; and
 (2) The alien otherwise meets the requirements in § 435.406(c) and 436.406(c) of this subpart.
3. The Appellant is an undocumented non-citizen of the United States who, in [REDACTED] 2004, had a sudden onset medical condition.

4. Uniform Policy Manual (UPM) Section 8080.30.B.2 states in part, for SMA, citizenship and non-citizen requirements are met if individuals would meet these requirements under either the SMANC program (Cross Reference UPM Section: 8016) or the MA program (Cross Reference UPM Section: 3005.08), except that there is no eligibility for persons who do not meet the requirements and who have an emergency medical condition.
5. UPM Section 3005.08.A. discusses eligible non-citizens arriving in the U.S. prior to 8/22/96. UPM Section 3005.08.B.10.a provides, in part, that an eligible non-citizen arriving in the United States on or after August 22, 1996 is someone who has lawfully resided in the U.S. for at least five years and is lawfully admitted to the U.S. for permanent residence under the Immigration and Nationality Act.
6. The Appellant is not a Lawful Permanent Resident of the United States.
7. The Appellant is an ineligible non-citizen for medical assistance purposes.
8. UPM Section 3005.08.C provides that a non-citizen who does not fall into one of the categories listed in A or B [as an eligible non-citizen] is eligible for MA only to cover an emergency medical condition and only if the non-citizen is otherwise eligible for Medicaid.
9. Uniform Policy Manual (UPM) Section 3000.01 defines an **emergency medical condition** as a medical condition, which, after sudden onset, manifests itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in (i) Placing the patient's health in serious jeopardy; (ii) serious impairment to bodily functions; or (iii) serious dysfunction of any bodily organ or part.
10. The Department was correct to submit the Appellant's medical packet to CCC for a determination regarding whether she meets the criteria to qualify for emergency medical assistance to non-citizens.
11. UPM Section 1540.10a 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.
 - A. The assistance unit bears the primary responsibility for providing evidence to corroborate its declarations.
 - B. The assistance unit may submit any evidence which it feels will support the information provided by the unit.
 - C. The Department obtains information on behalf of the assistance unit when the following conditions exist:
 1. the Department has the internal capability to obtain the verification needed through such means as case files, microfiche records, or direct access to other official records; or

2. the Department has the internal capability to obtain the verifications needed, and the assistance unit has done the following:
 - a. made a reasonable effort to obtain the verification on its own; and
 - b. been unable to obtain the verification needed; and
 - c. requested the Department's help in obtaining the verification.
 - d. continued to cooperate in obtaining the verification.
3. when the evidence necessary can only be obtained by payment of a fee, and the Department is able to obtain the evidence.
 - D. The Department considers all evidence submitted by the assistance unit or received from other sources.

12. UPM Section 1010.05A provides:
 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)
 2. The assistance unit must permit the Department to verify information independently whenever the unit is unable to provide the necessary information, whenever verification is required by law, or whenever the Department determines that verification is necessary (Cross reference: 1540).
13. The Department correctly identified a discrepancy in the records regarding the Appellant's date of birth and offered her an opportunity to clarify.
14. The Appellant timely clarified her date of birth by submitted a copy of her passport.
15. The Appellant did not timely clarify her date of birth with Hartford Hospital therefore discrepancies in the hospital's records regarding her date of birth remained unaddressed.
16. At this hearing, the Appellant provided an addendum to the Hartford Hospital Discharge Summary correcting the date of her birth in its records.
17. The hearing record was held open to allow information to be resubmitted to CCC for a review of all information, including the date of birth clarifications/corrections.
18. As of [REDACTED] 2016, CCC had not rendered a determination in this matter.

DISCUSSION

The Appellant applied for emergency medical assistance as a non-citizen in [REDACTED] 2015. The hearing record reflects that the records contained conflicting information regarding the Appellant's date of birth. CCC returned its referral to the Department due to "date of birth discrepancies". CCC requested clarification of the Appellant's date of birth but did not receive it, therefore; the Department denied the Appellant's application.

At this hearing, the Appellant provided information clarifying and correcting date of birth discrepancies. The Department agreed to resubmit the Appellant's information to CCC for an eligibility determination. CCC has not rendered a determination, therefore the matter is considered to be pending.

DECISION

This case is remanded to the Department for continued eligibility processing.

ORDER

The Department shall reopen the Appellant's [REDACTED] 2015 application for emergency medical assistance for non-citizens and shall continue to process.

Verification of compliance with this order shall be shown by submission of confirmation that the application was reopened and is pending and is due to OLCRAH by [REDACTED] 2016.

Pamela J. Gonzalez
Pamela J. Gonzalez
Hearing Officer

Copy: Musa Mohamud, SSOM, Hartford R.O. #10
Elizabeth Thomas, SSOM, Hartford R.O. #10
Patricia Ostroski, SSPM, Hartford R.O. #10
Tricia Morelli, SSPM, Hartford R.O. #10
Laurie Filippini, SSPM, Hartford R.O. #10
Garfield White, ESW, Hartford R.O. #10
[REDACTED]

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 06105-3725.

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 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.