

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

██████████ 2017  
Signature Confirmation

CLI# ██████████  
Req# 793434

NOTICE OF DECISION

PARTY

██████████  
██████████  
██████████

PROCEDURAL BACKGROUND

On ██████████ 2016, the Department of Social Services ("Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") denying her application for Medical benefits under the Medicaid for the Aged, Blind or Disabled ("MAABD") program.

On ██████████ 2016, the Appellant requested an administrative hearing to contest the Department's decision to deny such benefits.

On ██████████ 2016, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████ 2016.

On ██████████ 2016, 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 were present at the hearing:

██████████ Appellant  
██████████ Appellant's Husband  
██████████ Appellant's Witness, Son and Sponsor  
Marc Blake, Department's Representative  
Sybil Hardy, Hearing Officer

### **STATEMENT OF THE ISSUE**

The issue is whether the Department's decision to deny the Appellant's MAABD because she failed to provide information was correct.

### **FINDINGS OF FACT**

1. On [REDACTED] 2016, the Department received an application from the Appellant for medical assistance under the MAABD benefits. (Exhibit 3: Assistance status screen)
2. The Appellant is married. (Appellant's Witness' Testimony)
3. The Appellant entered the country over six years ago. (Appellant's Witness' Testimony)
4. The Appellant is a legal permanent resident. (Appellant's Witness' Testimony)
5. The Appellant and her spouse lived in Massachusetts for five years before moving to [REDACTED] Connecticut to live with their son and his family. (Appellant's Witness' Testimony)
6. The Appellant's son is her Sponsor. (Appellant's Witness' Testimony)
7. The Appellant is not a Refugee (Hearing Record)
8. The Appellant has no income or assets. (Appellant's Witness' Testimony, Exhibit 4: Husky C Supplemental Form)
9. The Appellant's spouse receives a gross monthly income from Supplemental Security Income ("SSI") of \$733.00. (Appellant's Witness' Testimony)
10. On [REDACTED] 2016, the Department sent the Appellant a Verification We Need Form ("W-1348") requesting the following information: the attached Sponsor(s) of Non-Citizens Information Sheet ("W-727") with the Sponsor's last four weeks of income and last 3 months assets and the attached Exception to Deeming for Needy Non-Citizens (W-724") form. This information was due back to the Department by [REDACTED] 2016. (Hearing Record, Exhibit 1: W-1348 Form, Exhibit 2: W-724 Form, Exhibit 3: W-727 Form)
11. The Appellant received the request for the missing information. (Hearing Record, Exhibit 5: Letter to the Department from [REDACTED] [REDACTED]/16)

12. On [REDACTED] 2016, the Appellant sent the Department a letter asking the Department not to send the name and address of her sponsor to the United States Attorney General/United States Citizenship and Immigration Services ("USCIS") because she only wants to apply for the States federally-funded Medicaid program. (Exhibit 5)
13. The Department did not receive any of the items requested on the W-1348 form within 10 days. (Hearing Record)
14. The Appellant's sponsor information was not received by the Department. (Hearing Record, Appellant's Witness' Testimony)
15. On [REDACTED] 2016, the Department sent the Appellant a notice indicating that her application for medical assistance under the MAABD program was denied because she failed to provide all requested information needed to establish eligibility for the program. (Exhibit 6: Notice of Action, [REDACTED]/16)

### **CONCLUSIONS OF LAW**

1. Federal law provides that qualified aliens who are legal permanent residents, conditional entrants, parolees for at least one year and also battered persons who have established a prima facie case or have an approved petition, may be eligible for Medicaid if they meet the financial and categorical eligibility requirements of Medicaid and if they have lived in the United States for at least five years. 8 U.S.C. §§ 1612, 1613, 1641.
2. Federal law provides that qualified aliens who receive SSI or who are asylees, refugees, Cuban or Haitian entrants, Amerasian immigrants or persons whose deportation has been withheld, and also veterans legally residing in the state or on active duty or the spouses or dependents of such persons, victims of human trafficking, Native Americans born in Canada or who are in a federally recognized tribe, Iraqi or Afghan Special Immigrants or family members within the first eight (8) months of arrival in the United States and members of the Hmong or Highland Laotian Tribe during the Viet Nam era may be eligible for Medicaid without having lived in the United States for at least five years. 8 U.S.C. §§ 1612, 1613, 1641.
3. Federal law provides that individuals who are pregnant or under 21 years old may be eligible for Medicaid, regardless of their category of non-citizen status. 42 U.S.C. § 1396b(v)(4).
4. Section 17b-2 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the Medicaid program pursuant to Title XIX of the Social Security Act.

5. Uniform Policy Manual ("UPM") § 3005.05 provides that in order to receive benefits from any assistance program an individual must be either a citizen or eligible non-citizen.
6. UPM § 3005.08(B) provides that an eligible non-citizen is one who arrives in the U.S. on or after August 22, 1996 and:
  1. is admitted to the U.S. as a refugee under section 207 of the Immigration and Nationality Act; or
  2. is granted asylum under section 208 of such act; or
  3. whose deportation is being withheld under section 243(h) of such act (as in effect immediately before the effective date of section 307 of division C of Public Law 104-208) or section 241(b)(3) of such act (as amended by section 305(a) of division C of Public Law 104-208); or
  4. is lawfully residing in the state and is:
    - a. a veteran (as defined in section 101, 1101, or 1301, or as described in section 107 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage and who fulfills the minimum active-duty service requirements of section 5303A(d) of title 38 U.S.C.; or
    - b. on active duty (other than active duty for training) in the Armed Forces of the United States; or
    - c. the spouse or unmarried dependent child of an individual described in subparagraph a or b or the unremarried surviving spouse of a deceased individual described in subparagraph a or b if the marriage fulfills the requirements of section 1304 of title 38, U.S.C.; or
  5. is granted status as a Cuban and Haitian entrant under section 501 (e) of the Refugee Education Assistance Act of 1980; or
  6. is admitted to the U.S. as an Amerasian immigrant pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101 (e) of Public Law 100-202 and amended by the 9th proviso under MIGRATION AND REFUGEE ASSISTANCE in title

II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, Public Law 100-461, as amended); or

7. is an American Indian born in Canada to whom the provisions of section 289 of the Immigration and Nationality Act apply; or
8. is a member of an Indian tribe under section 4 (e) of the Indian Self-Determination and Education Assistance Act; or
9. is receiving SSI; or
10. has lawfully resided in the U.S. for at least five years and:
  - a. is lawfully admitted to the U.S. for permanent residence under the Immigration and Nationality Act; or
  - b. is paroled into the U.S. under section 212 (d) of such act for a period of at least one year; or
  - c. is granted conditional entry pursuant to section 203 (a) (7) of such act as in effect prior to April 1, 1980; or
  - d. has been battered or subjected to extreme cruelty in the U.S. by a spouse or parent, or by a member of the spouse or parent's family living with the non-citizen and the spouse or parent allowed such battery or cruelty to occur, but only if:
    - (1) the Department determines that the battery or cruelty has contributed to the need for medical assistance; and
    - (2) the non-citizen has been approved or has an application pending with the INS under which he or she appears to qualify for:
      - (a) status as a spouse or child of a U.S. citizen pursuant to clause (ii), (iii) or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act; or
      - (b) classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B) of such act; or
      - (c) suspension of deportation and adjustment of status pursuant to section 244(a)(3) of such act; or

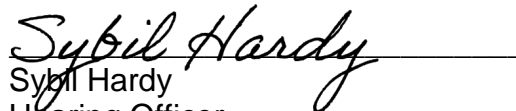
- (d) status as a spouse or child of a U.S. citizen pursuant to clause (i) of section 204(a)(1)(A) of such act, or classification pursuant to clause (i) of section 204(a)(1)(B) of such act; and
  - (3) the individual responsible for such battery or cruelty is not presently residing with the person subjected to such battery or cruelty; or
  - e. is a non-citizen whose child has been battered or subjected to extreme cruelty in the U.S. by a spouse or parent of the non-citizen (without the active participation of the non-citizen in the battery or cruelty), or by a member of the spouse or parent's family living with the non-citizen and the spouse or parent allowed such battery or cruelty to occur, but only if the criteria in subparagraph d (1), (2) and (3) above are met; or
  - f. is a non-citizen child living with a parent who has been battered or subjected to extreme cruelty in the U.S. by that parent's spouse or by a member of the spouse's family living with the parent and the spouse allowed such battery or cruelty to occur, but only if the criteria in subparagraph d (1), (2) and (3) above are met; or
11. is lawfully residing in the United States and who was a member of a Hmong or Highland Laotian Tribe at the time that tribe rendered assistance to United States personnel during the Viet Nam era. The individual's spouse, surviving spouse and unmarried dependent children are also eligible.
7. UPM § 5020.60(A) provides that deemed income from sponsors of non-citizens the Sponsor of of Non-Citizens who entered the U.S. on or after August 22, 1996 and executed the revised affidavit of Support (I-864) or the contract between sponsor and household member (I-864A)
- A. Circumstances Under Which Income is Deemed
- 1. The Department deems the income of a non-citizen's sponsor and the sponsor's spouse, if the spouse signed the Revised Affidavit of Support (I-864) or the Contract Between sponsor and Household Member (I-864A) to the non-citizen under the following circumstances:
    - a. The sponsor and the sponsor's spouse are not members of the same assistance unit as the non-citizen; and
    - b. the non-citizen must have a sponsor under USCIS rules; and

- c. the sponsor and the sponsor's spouse have executed an Affidavit of Support (I-864) or the contract Between Sponsor and Household member (I-864A) pursuant to 8 U.S.C. § 1183a(a) section of the Personal Responsibility and Work Opportunity Act of 1996 , amending Title II of the Immigration and Nationality Act by adding section 213 (a) on behalf of the non-citizen; and
    - d. the sponsor is an individual rather than an institution; and
    - e. none of the exceptions set forth in Paragraph C of this section are applicable.
  2. The Department deems income in accordance with Paragraph A.1 of this section whether or not the sponsor lives with the non-citizen.
  3. The Department deems income in accordance with paragraph A.1 until one of the following events occurs:
    - a. The non-citizen becomes a citizen of the United States; or
    - b. The non-citizen works 40 qualifying quarters, as defined under Title II of the Social security Act ; or
    - c. The non-citizen is credited for having worked 40 qualifying work quarter if, beginning January 1, 1997, the qualifying quarters were worked when the non-citizen did not receive any federal means-tested public benefit and either
      - (1) The qualifying quarters worked by a parent of such non-citizen while the non-citizen was under 18 years of age; or
      - (2) The qualifying quarters were worked by a spouse of such non-citizen during the couple's marriage and the non-citizen remains married to such spouse or such spouse is deceased; or
      - (3) The non-citizen or the sponsor dies.
8. The Department correctly determined that the Sponsor's income and asset information was needed to determine eligibility for the Appellant.
9. 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.
10. The Department correctly notified the Appellant of the missing information needed to establish eligibility.
11. UPM § 1540.10(A) provides that the assistance unit bears the primary responsibility for providing evidence to corroborate its declarations.

12. UPM § 1505.35(C) provides that the following standards be established as maximum times for processing application; forty-five calendar days for AABD and MA applicants applying based on age or blindness.
13. UPM § 1505.35(D)(2) 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.
14. The Department correctly determined that the sponsor information was not received by the Department by the due date.
15. The Department correctly denied the Appellant's application for medical assistance under the MAABD program.

**DECISION**

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

  
Sybil Hardy  
Hearing Officer

C: Musa Mohamud, Operations Manager, DSS R.O. # 10, Hartford  
Judy Williams, Operations Manager, DSS R.O. # 10, Hartford  
Tricia Morelli, Program Manager, DSS R.O. # 10, Hartford  
Marc Blake, Fair Hearings Liaison, DSS R.O. # 10, Hartford



### **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 06105-3725.

### **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 06105-3725. 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.