

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

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

Client ID # ██████████
Request # 830328

NOTICE OF DECISION
PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2017, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA) denying her Med-Connect Medicaid for Employees with Disabilities ("S05") program application.

On ██████████ 2017, the Appellant requested an administrative hearing to contest the Department's decision to deny such benefits.

On ██████████ 2017, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████ 2017.

On ██████████ ██████████ 2017, the OLCRAH issued a notice rescheduling the administrative hearing for ██████████ 2017.

On ██████████ ██████████ 2017, the OLCRAH issued a notice rescheduling the administrative hearing for ██████████ 2017.

On ██████████ 2017, 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
██████████ Appellant's daughter and Witness
Sulma Fuentes, Department's Interpreter
Tammy Browning, RN, Colonial Cooperative Care's Representative

Patricia Simmons, Department's Representative
Veronica King, Hearing Officer

The hearing record was held open for the submission of additional evidence. On [REDACTED] 2017, the hearing record was closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Medicaid under the S05 program was correct.

FINDINGS OF FACT

1. On [REDACTED] 2017, the Appellant applied for Med-Connect Medicaid for Employees with Disabilities ("S05") program. (Exhibit 1: Narratives screen print and Hearing Notice)
2. Colonial Cooperative Care, Inc. ("CCCI") is the Department's contractor for determining disability claims. (Hearing Record)
3. On [REDACTED] 2017, the Department issued a Verification We Need ("W-1348") form requesting verification of assets, spouse's income, last day of employment for self and medical packet (W300 Medical Report, W303 client supplement) to be return to CCC. (Exhibit 1)
4. The Appellant is forty-six (46) years old. (Appellant's Testimony)
5. The Appellant was working at [REDACTED] and had a pending short term disability claim. (Exhibit 1 and hearing Record)
6. The W310 ("CCC notice of Decision") stated that the Medical Report was missing specific and detailed medical information and that CCC needed additional information. (Exhibit 3: W310 CCC Notice of Decision, [REDACTED]/17)
7. On [REDACTED] 2017, the Department denied the Appellant's [REDACTED] 2017, S05 application and issued a notice to the Appellant. The notice stated that her application was denied because CCC has not found that you are disabled. (Exhibit 4: Notice of Action, [REDACTED]/17)
8. On [REDACTED] 2017, the CCC's representative testified that the Appellant's disability determination is undetermined and that CCC was waiting for additional medical information. (CCC Representative's Testimony)

9. On [REDACTED] 2017, the Appellant provided verification that she submitted additional medical information to CCC and to the Department. (Appellant's Exhibit A: Additional documents and Hearing Record)
10. On [REDACTED] [REDACTED] 2017, CCC reviewed the additional documents and determined the Appellant is disabled. (Exhibit 5: W310 CCC Notice of Decision, [REDACTED]/17)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes authorizes the Commissioner to administer the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Uniform Policy Manual ("UPM") § 2540.85 provides that there are two distinct groups of employed individual between the ages of 18 and 64 inclusive who have a medically certified disability or blindness and who qualify for Medicaid as working individual with disabilities. These groups are Basic Insurance Group and the Medically Improved Group. There is a third group of employed individual consisting of persons at least 18 years of age who have medically certified disability or blindness who also qualify for Medicaid as working individual with disabilities. This is the Balanced Budget Act Group. Persons in this third group may be age 65 or older.
3. UPM § 2530.05(A) provides that to qualify for the State Supplement or related Medical Assistance programs on the basis of disability, the individual must be disabled as determined by SSA or the Department. The individual must be found to have an impairment which:
 1. Is medically determinable; and
 2. Is severe in nature; and
 3. Can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve (12) months; and
 4. Except as provided in paragraph C below, prevents the performance of previous work or any other substantial gainful activity, which exists in the national economy.
4. UPM § 2530.05(B) provides except as provided in paragraph C below, the medical criteria the Department uses for determining disability are the same as those used for evaluating disability under SSI in accordance with 20 CFR Chapter III Appendices 1 and 2.
5. UPM § 2530.05(C) provides that under the Medicaid coverage group "Working Individual with Disabilities," the individual must have a medically

determinable impairment. However, the individual's ability to perform substantial gainful activity has not effect on the disability determination. (Cross Reference 2540.85)

6. UPM § 2530.10(A)(1) provides that an individual who is considered disabled by SSA is considered disabled by the Department.
7. UPM § 2530.10(A)(2) provides that a final determination by SSA that an individual is not disabled takes precedence over a determination by the Department, except in the situations described in paragraph C, below.

UPM § 2530.10(B)(2) provides that the Department makes a determination of disability under the following conditions:

- a. When the applicant has not previously applied to SSA as a disabled person;
- b. When the applicant has applied to SSA on the basis of disability and the application is pending or a final decision has not been rendered;
- c. When the applicant is denied by SSA for a reason other than disability;
- d. In the circumstances described in paragraph C, below.

UPM § 2530.10(C)(1) provides that the Department makes a separate determination of disability in each of the following situations, even though SSA has previously determined that the individual was not disabled. The prior decision by SSA is not considered binding under these conditions: the Department makes a separate determination any time an applicant alleges a disabling condition which is different from or in addition to the conditions considered by SSA in making its last determination.

UPM § 2530.10(C)(3) provides that the Department makes a separate determination if more than 12 months after SSA denies disability the following conditions exist:

- a. The applicant alleges that he or she is disabled as the result of a change or deterioration of the same condition; and
 - b. SSA has not made a determination with respect to the new allegations.
8. CCC correctly made a separate determination of disability.
 9. On ██████ 2017, the Department incorrectly denied the Appellant's ██████ 2017 application for Medicaid under the S05 program.

DECISION

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

ORDER

- 1- The Department shall reopen the Appellant's [REDACTED] 2017, Medicaid under the S05 program application and if necessary issue a W-1348, Verification We Need form advising the Appellant what is needed to establish eligibility.
- 2- Compliance with this order shall be forward to the undersigned no later than [REDACTED] 2017.

Veronica King

Veronica King
Fair Hearing Officer

CC: Tyler Nardine, Social Services Operation Manager, DSS DO#40
Tonya Cook-Beckford, Social Services Operation Manager, DSS DO#40
Patricia Simmons, Hearing Liaison, DSS DO#40

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, 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.