

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES OFFICE OF LEGAL COUNSEL,
REGULATION AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CONNECTICUT 06105-3730

██████████ 2018
Signature Confirmation

Client ID # ██████████
Request ID #115704

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████, 2017, the Department of Social Services (the "Department"), denied ██████████ (the "Appellant") application for emergency medical assistance for non-citizens under the Medicaid program.

On ██████████, 2018, the Appellant's Authorized Representative at ██████████ requested an administrative hearing to contest the Department's action.

On ██████████, 2018, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████, 2018.

On ██████████, 2018, the Appellant requested to reschedule the hearing.

On ██████████, 2018, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice rescheduling the administrative hearing on ██████████ 2018.

On [REDACTED] 2018, 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:

[REDACTED], Appellant
 [REDACTED], for the Appellant
 [REDACTED], for the Appellant
 Althea Forbes Francis, Department's Representative
 Yamali Luciani, Department's Interpreter (Spanish)
 Shelley Starr, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's denial of the Appellant's application for emergency medical assistance for non-citizens under the Medicaid program was correct.

FINDING OF FACTS

1. On [REDACTED], 2017, the Appellant, through his Authorized Representative [REDACTED], applied for non-citizen emergency medical services. (Exhibit 8: Case narrative)
2. The Appellant is undocumented alien, born in Mexico, with a date of birth of [REDACTED]. (Appellant's Testimony; Exhibit 1: Online Application dated [REDACTED])
3. The Appellant is requesting medical coverage for emergency medical services for the period of [REDACTED] 2017 through [REDACTED], 2017. ([REDACTED] Testimony)
4. On [REDACTED] 2017, the Department sent the Appellant a Verification We Need form requesting his hospital discharge summary. The information was due by [REDACTED], 2017. (Exhibit 2: W-1348 dated [REDACTED], 2017; Exhibit 8: Case Narrative)
5. On [REDACTED] 2017, the Department received the Appellant's discharge summary. The Department claimed to have manually issued a W-1348 Verification We Need to the Appellant requesting the last four wage stubs from his employment at [REDACTED]. (Exhibit 8: Case Narrative)
6. There is no evidence in the hearing record that the manual W-1348 Verification We Need form was sent to the Appellant or his Authorized Representative on [REDACTED] 2017. (Hearing Record).

7. On [REDACTED] 2017, the Department sent the Appellant a Verification We Need form requesting paystubs from the month of the request for medical assistance. The form noted that if the information was not received, you will not be eligible for assistance. The information was due by [REDACTED], 2017. Exhibit 2: W-1348 Verification We Need dated [REDACTED] 1, 2017; Exhibit 8: Case Narrative)
8. On [REDACTED] 2017, the Department received from the Appellant a self-attested letter advising that he is not employed or receiving income from any party effective [REDACTED], 2017. Exhibit 4: Self Attested letter; Exhibit 8: Case Narrative)
9. There is no evidence in the hearing record that the Department responded to the Appellant's submission of his self-attested employment letter. (Hearing Record)
10. On [REDACTED], 2017, the Department denied the Appellant's Emergency Medical Assistance application for failure to provide information. (Department's Testimony; Exhibit 5: STAT screen print; Exhibit 8: Case Narrative)
11. There is no evidence in the hearing record that the Verification We Need Requests for information or the Medicaid denial letter was sent to the designated authorized representative. (Hearing Record).

CONCLUSION OF LAW

1. Section 17b-2 of the Connecticut General Statutes authorizes the Commissioner of Social Services to administer the Medicaid program.
2. Title 42 of the Code of Federal Regulations ("CFR") § 440.255(b) provides that *Legalized aliens eligible only for emergency services and services for pregnant women*. Aliens granted lawful temporary resident status, or lawful permanent resident status under sections 245A, 210 or 210A of the Immigration one of the exempt groups described in §§ 435.406(a)(3) and 436.406(a)(3) and who meet all other requirements for Medicaid will be eligible for the following services—
 - (1) Emergency services required after the sudden onset of a medical condition manifesting 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
3. 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.

The Department correctly determined the Appellant is an undocumented alien without legal status.

4. Uniform Policy Manual ("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.

UPM § 1015.10 (A) provides that the Department must inform the assistance unit regarding the eligibility requirements of the programs administered by the Department, and regarding the unit's rights and responsibilities.

The Department did not inform the Appellant's Authorized Representative the Verification needed to determine eligibility.

5. UPM § 1525 provides in part that under certain conditions an assistance unit may designate an authorized representative to act on the unit's behalf in dealings with the Department.

UPM § 1525.05 (A) provides an assistance unit may be represented in various aspects of the eligibility process by a responsible individual who has been given prior authorization to act as the assistance unit's representative.

UPM § 1525.05 (C)(2) provides that an authorized representative must be designated in writing by one of the following individuals : in the AABD and MA programs, by the applicant.

The Appellant designated [REDACTED] as his authorized representative to assist with his application process.

The Department did not inform the designated authorized representative what was needed for the application process.

6. UPM § 1505.40(B)(5) provides for delays in application processing due to insufficient verification in the AFDC, AABD and MA programs.
7. UPM § 1505.40 (B)(5)(a)(1)&(2) provide that regardless of the standard of promptness, no eligibility determination is made when there is insufficient verification to determine eligibility when the Department has requested verification and at least one item of verification has been submitted by the assistance unit within a time period designated by the Department but more is needed.

UPM § 1505.40 (B)(5)(b) provides that an additional 10 day extension for submitting verification shall be granted, as long as after each subsequent request for verification at least one item of verification is submitted by the assistance unit within each extension period.

The Department did not issue an additional verification request after receiving the Appellant's self attested letter.

The Department incorrectly denied the Appellant's application for medical assistance.

DISCUSSION

Based on the testimony and evidence, I find the Department incorrectly denied the Appellant's Medicaid application for failure to provide information. The Department did not issue a new verification request after receiving the Appellant's self attested letter regarding his employment. In addition, there is no evidence in the hearing record that the Department sent the Verification We Need requests to the designated Authorized Representative. The Representative should have been informed that the information provided was not sufficient and should have been provided with an additional 10 days to provide the verifications needed for the eligibility determination.

DECISION

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

ORDER

1. The Department shall reopen the Appellant's application from the original application date of [REDACTED], 2017.
2. The Department shall request any outstanding verifications necessary and proceed with the eligibility determination for the emergency medical assistance application.
3. Compliance with this order by proof of the reopening of the application is due to the undersigned no later than [REDACTED], 2018.


Shelley Starr
Hearing Officer

cc: Patricia Ostroski, DSS Regional Office
[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.

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.