

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

██████████, 2018
SIGNATURE CONFIRMATION

Case #: ██████████
Client #: ██████████
Hearing #: ██████████

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████, 2018, the Department of Social Services (the "Department") sent ██████████ (the "Appellant"), a Notice of Action ("NOA") denying her application for HUSKY C-Individual Receiving Home and Community Based Services which is also known as the Connecticut Home Care Program for Elders ("CHCPE").

On ██████████, 2018, the Appellant requested an administrative hearing to contest the denial of the CHCPE.

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

On ██████████ 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:

████████████████████, Appellant
████████████████████ Appellant's Witness
Shauna Schmoke, Department's Representative via telephone
Noel Lord, Observer from the Department
Carla Hardy, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly denied the Appellant's HUSKY C-Individual Receiving Home and Community Based Services due to failure to provide information needed to establish eligibility.

FINDINGS OF FACT

1. Prior to [REDACTED] 2018, the Appellant was receiving community based services that included home care services. The Appellant was required to apply for the CHCPE when she turned age 65. ([REDACTED]'s Testimony)
2. [REDACTED] (the "Social Work Supervisor") is a Social Work Supervisor with the Department. (Hearing Record)
3. On [REDACTED] 2018, the Department received the Appellant's application for the CHCPE. (Exhibit A: W-1LTC application, Exhibit B: Case Notes)
4. The Appellant has been separated from her spouse, [REDACTED] since [REDACTED] 2012. (Appellant's Testimony)
5. The Appellant is 65 years old (DOB [REDACTED]). (Exhibit A)
6. The Appellant's income consists of \$547.00 Social Security and \$223.00 Supplemental Security income monthly. (Exhibit A)
7. The Appellant has authorized the Department to disclose information regarding her application to Southwestern Connecticut Agency on Aging ("SWCAA"). (Exhibit A, Hearing Record)
8. On [REDACTED] 2018, the Department mailed the Appellant and SWCAA a Verification We Need form ("W-1348LTC") requesting bank statements for 2013, 2014 and 2017. The requested information was due by [REDACTED], 2018. (Exhibit C: W-1348LTC, [REDACTED]/18; Hearing Summary).
9. On [REDACTED] 2018, the Department mailed the Appellant and SWCAA a W-1348LTC requesting information on the Appellant's spouse that included his name, address, phone number, social security number and date of birth. (Exhibit B)
10. On [REDACTED] 2018, the Department received a phone call from the Appellant stating she was waiting for her bank to provide the bank statements. She also gave the Department her spouse's name, date of birth, social security number and address. She stated she had been separated from him for five or six years and would not get a divorce due to her religion. (Exhibit B)
11. On [REDACTED] 2018, the Department received the [REDACTED] 2013 and [REDACTED] 2014 [REDACTED] statements for the account ending in [REDACTED]. They sent another W-

1348LTC requesting the [REDACTED] 2017 statements for the Appellant's checking and savings accounts, the [REDACTED] 2012 and 2013 [REDACTED] savings, and the [REDACTED] 2013, [REDACTED] 2014 and [REDACTED] r 2017 for the [REDACTED] account ending in [REDACTED]. The requested information was due by [REDACTED], 2018. (Exhibit B; Exhibit D: W-1348LTC, [REDACTED] 18)

12. On [REDACTED] 2018, the Department sent a W-1348LTC requesting the spouse's asset information. The requested information was due by [REDACTED], 2018. (Exhibit B)
13. On [REDACTED], 2018, the Department reviewed the [REDACTED] 2013 and [REDACTED] 2014 [REDACTED] statements for the account ending in [REDACTED] that were submitted by the Appellant. The Department contacted the Department's Social Work Supervisor, [REDACTED] for assistance. (Exhibit B)
14. On [REDACTED], 2018, the Department mailed the Appellant a W-1348LTC requesting asset information for the spouse. The requested information was due by [REDACTED] 2018. (Exhibit E: W-1348LTC, [REDACTED] 18)
15. On [REDACTED] 2018, the Social Work Supervisor contacted the spouse. She explained the Appellant's need for his income and asset information. The spouse was uncooperative and refused to supply the requested information. (Social Work Supervisor's Testimony)
16. The spouse is not incompetent. (Appellant's Testimony)
17. The Department did not receive any additional information from the Appellant. On [REDACTED] 2018, they issued a notice to her denying the Husky C- Individual Receiving Home and Community Based Services. (Exhibit B; Exhibit F: NOA, [REDACTED]/18)

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") § 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 which the Department requires to determine eligibility and calculate the amount of benefits.
3. 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.
4. The Department correctly sent the Appellant Verification We Need lists ("W-1348LTC") requesting information needed to establish eligibility.

5. UPM § 1505.25(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: the client has good cause for not submitted verification by the deadline or the client has been granted a 10 day extension to submit verification which has not elapsed.
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) provides 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.
8. 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.
9. The Department correctly issued additional Verification We Need forms when at least one item of verification was submitted by the Appellant.
10. UPM § 1505.40(B)(1)(c) provides that the applicant's failure to provide verification by the processing date causes one or more members of the assistance unit to be ineligible if the unverified circumstance is a condition of eligibility.
11. UPM § 1505.35(C)(1)(2) provides that a standard of promptness is established as the maximum time period for processing applications. For applicants for Medical Assistance on the basis of age; that standard is forty-five calendar days.
12. UPM § 4000.01 provides that MCCA spouses are spouses who are members of a married couple one of whom becomes an institutionalized spouse on or after September 30, 1989, and the other spouse becomes a community spouse.
13. The Appellant and her spouse are MCCA spouses as defined by the Medicaid program. The Appellant is an Institutional Spouse ("IS") and her husband is a Community Spouse ("CS")
14. UPM § 4025.67(B) provides the Department does not deem assets from the community spouse to the institutional spouse:
 1. After the initial month the institutionalized spouse is eligible as an institutionalized spouse; or
 2. When undue hardship exists (Cross Reference 4025.68); or
 3. When the IS has assigned his or her spousal support right to the Department (Cross Reference: 4025.69); or

4. When the IS cannot execute the assignment because of a physical or mental impairment (Cross Reference: 4025.69).
15. UPM § 4025.68 provides:
 - A. Undue hardship exists when:
 1. The facility has threatened, in writing, to evict the institutionalized spouse (IS) due to non-payment of the cost of care; and
 2. All of the assets of the community spouse (CS) are unavailable due to circumstances beyond the control of the institutionalized spouse; and
 3. The institutionalized spouse does not have counted assets exceeding the asset limit; and
 4. The institutionalized spouse executes an assignment of support rights. (Cross Reference 7520.07)
 - B. The assets of the community spouse are considered unavailable due to circumstances beyond the control of the institutionalized spouse when:
 1. the location of community spouse is unknown; or
 2. the community spouse is unable, after reasonable efforts have been made, to provide information regarding his or her assets due to circumstances beyond his or her control; or
 3. the community spouse is incompetent and is unwilling or unable to provide the information.
 - C. When the conditions described in paragraphs A and B above exist, no assets of the community spouse are deemed to the institutionalized spouse (cross reference: 4025.67 B).
16. The Appellant did provide evidence of undue hardship.
17. UPM § 1505.40(B)(1)(b)(1) provides if assistance cannot be granted, Medicaid applications are denied between the thirtieth day and the last day of the appropriate promptness standard for processing the application.
18. The Department correctly determined that neither the Appellant nor her Authorized Representative provided at least one item of verification from the [REDACTED] 2018, W-1348LTC by the due date.
19. The Department correctly denied the applicant's application for HUSKY C-Individual Receiving Home and Community Based Services for failure to provide verifications needed to determine eligibility.

DECISION

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


Carla Hardy
Hearing Officer

Pc: Shirlee Stoute, DSS, CO
Paul Chase, DSS, CO
Linda Bonetti, DSS, CO
Laurie Filippini, DSS, CO
Pam Adams, DSS, CO

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.