

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

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

NOTICE OF DECISION

PARTY

██████████
for: ██████████
██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████, the Appellant, by ██████████, her conservator of estate and person, requested an administrative hearing to appeal the Department's processing of her application for Medicaid.

On ██████████, the Department of Social Services (the "Department") issued a Notice of Action ("NOA") to ██████████ (the "Appellant") denying her application for Medicaid because she did not meet the eligible non-citizen program requirements.

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

On ██████████, 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 Appellant is appealing the ██████████ denial of her Medicaid application, despite having requested the hearing prior to the NOA being issued.

The following individuals were present at the hearing:

██████████, Appellant's conservator of person and estate
Kelly Gaertner, attorney representing St. Francis Hospital

Suzanne Sullivan, Case Management, St. Francis Hospital
Cathy Pallotti, Social Worker, St. Francis Hospital
Angeline Joiner, Patient Accounts, St. Francis Hospital
Marc Blake, Department's Representative
James Hinckley, Hearing Officer

STATEMENT OF THE ISSUES

1. The first issue is whether the Department's [REDACTED] denial of the Appellant's Medicaid application was correct.
2. The second issue is whether the Department was correct when it required a hospital discharge summary as part of the Appellant's application.

FINDINGS OF FACT

1. The Appellant is an incapable person, and [REDACTED] is her conservator of person and estate (her "Conservator"). (Hearing Record)
2. The Conservator is recorded in the Department's computer as the Appellant's Authorized Representative who is to receive copies of all notices, and her current address is correctly listed there. (Ex. 4: Authorized Representative – Summary screen)
3. The Appellant is an undocumented non-citizen. (Testimony, Hearing Record)
4. On [REDACTED], the Appellant, by her Conservator, applied for Medicaid coverage for an emergency medical condition. (Ex. 1: Application form, Hearing Record)
5. On [REDACTED], the Department sent a form W-1348M *Worker Generated Request for Proofs* to the Appellant; the proofs requested included, "Please provide discharge summary for client's procedure at Saint Francis Hospital for [REDACTED]. Discharge Summary should include dates of service. Thank you." (Ex. 2: W-1348M form)
6. The Department did not receive the medical information requested on the W-1348M form. (Hearing Record)
7. On [REDACTED], the Department issued a NOA to the Appellant denying her Medicaid application because she did not meet the eligible non-citizen program requirements. (Ex. 3: NOA dated [REDACTED])
8. The Appellant has no discharge summary available to her, because she has not been discharged from the acute care hospital; although her

emergency medical condition has been treated, she cannot currently be placed in a more appropriate skilled nursing facility setting because her undocumented immigration status presents a barrier to securing a funding source for nursing home placement. (Conservator's testimony, Ms. Gaertner's testimony)

9. The Conservator did not receive a copy of the [REDACTED] W-1348M *Worker Generated Request for Proofs* form. (Conservator's testimony)
10. The record does not contain a copy of the W-1348M *Worker Generated Request for Proofs* form addressed to the Conservator; the only copy is addressed directly to the Appellant. (Hearing Record, Ex. 2)

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") § 3005.08(A) and (B) describe the categories of non-citizens who are considered eligible non-citizens for federal Medicaid, and none of the eligible non-citizen categories described therein include undocumented non-citizens.

UPM § 3005.08(C) provides that a non-citizen who does not fall into one of the categories in A or B is eligible for MA only to cover an emergency medical condition and only if the non-citizen is otherwise eligible for Medicaid.

The Appellant can only be potentially eligible for medical assistance to cover an emergency medical condition, because she is an undocumented non-citizen who does not meet any of the eligible non-citizen requirements for Medicaid.

3. UPM § 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.
4. 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 § 1505.35(C) provides that the following promptness standards be established as maximum times for processing applications: forty-five calendar days for AABD or MA applicants applying based on age or blindness.

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.

UPM § 1015.05(C) provides that the Department must tell the assistance unit what the unit has to do to establish eligibility when the Department does not have sufficient information to make an eligibility determination.

The Department was incorrect when it denied the Appellant's Medicaid application on [REDACTED], because the Appellant was not properly informed what information was needed to establish eligibility. The Appellant is incapable, and her Conservator did not receive the W-1348M Worker Generated Request for Proofs form.

UPM § 3099.03(E) provides that non-citizens who do not otherwise meet eligible non-citizen criteria (cross reference UPM section 3005.05), except for an emergency medical condition, are required to submit a statement signed by a physician verifying the need for emergency treatment.

UPM § 1540.15(A) provides that the information provided by the assistance unit is verified through a cooperative effort between the Department and the members of the unit:

1. The Department determines the adequacy and appropriateness of the method selected.
2. The method of verification which is chosen depends upon the nature of the information being verified and the feasibility of other available methods.

UPM § 1540.15(B) provides that:

1. Documents are the primary sources of verification whenever such evidence can be acquired.
2. The Department accepts any document which it feels clearly establishes the veracity of the unit's declarations without restricting the evidence to any one particular type of document.

The Department was incorrect when it informed the Appellant that she was required to submit a discharge summary in order to establish her eligibility for coverage for an emergency medical condition. The Department must not restrict the verification it will accept to any one particular type of document. In the Appellant's case, no discharge summary has been written because she has not been discharged, so

the Department's request was impossible to meet. The only requirement for verification of an emergency medical condition that the Department must impose is that the verification must include a physician's signature.

DISCUSSION

Although the Appellant's conservator is listed as authorized representative in the Department's computer, there is no evidence of a W-1348M *Worker Generated Request for Proofs* addressed to her, and she credibly testified that she never received any such request.

Although no specific reason was identified why the conservator might not have been sent the request, a computer issue is a plausible explanation. The Department is still addressing system issues related to the implementation of its current computer system.

A second concern of the Appellant was that the Department's request for a discharge summary was impossible to comply with, because the Appellant remains a patient at the acute care hospital with no discharge imminent. It would limit the Appellant's opportunity to participate in a program she might be eligible for if the Department restricted the verification it was willing to accept to a particular document, when others could be used to establish her eligibility.

DECISION

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

ORDER

1. The Department must reopen the Appellant's Medicaid application as of [REDACTED], must ensure that the Appellant's conservator receive copies of all future notices and requests, and must review whatever medical records are provided to demonstrate the Appellant's claimed emergency medical condition, without imposing any specific requirement that the records include a discharge summary.
2. The Department must send proof directly to the undersigned hearing officer by no later [REDACTED] [REDACTED] that the application has been reopened.

James Hinckley
James Hinckley
Hearing Officer

CC: [REDACTED]
[REDACTED]
[REDACTED]
[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, law, and 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.

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, if 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 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.