

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

██████████ 2019
Signature confirmation

Case: ██████████
Client: ██████████
Request: 132793

NOTICE OF DECISION

PARTY

██████████
████████████████████
████████████████████

PROCEDURAL BACKGROUND

On ██████████, 2018, the Department of Social Services (the “Department”) issued a *Notice of Action* to ██████████ (the “Appellant”) denying her HUSKY-C Medicaid for Home and Community Based Services application (the “Medicaid application”).

On ██████████ 2018, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) received the Appellant’s administrative hearing request, postmarked ██████████ 2018.

On ██████████ 2018, the OLCRAH scheduled the Appellant’s administrative hearing for ██████████ 2018. The Appellant requested a postponement of the administrative hearing; the OLCRAH granted this postponement.

On ██████████ 2019, in accordance with sections 17b-60, 17b-61, and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, the OLCRAH held an administrative hearing. The following individuals attended the administrative hearing by telephone- and video-conferencing:

██████████, Appellant
██████████ Appellant’s witness (brother)
Tiffany Roman, Department’s representative
William Johnson, Department’s observer
Eva Tar, Hearing Officer

At the Appellant’s request, the close of the hearing record for the submission of evidence was extended through ██████████ 2019; the undersigned hearing officer allowed the

Department through [REDACTED] 2019 to submit written comment. On [REDACTED] 2019, the hearing record closed.

STATEMENT OF ISSUE

The issue to be decided is whether the Department correctly denied the Appellant's Medicaid application.

FINDINGS OF FACT

1. The Appellant is married to [REDACTED] (the "estranged spouse"). (Appellant's Exhibit R)
2. Prior to becoming a resident of the State of Connecticut, the Appellant and her spouse lived in [REDACTED]. (Appellant's testimony)
3. In [REDACTED], the estranged spouse was physically and mentally abusive to the Appellant. (Appellant's Exhibit O)(Department's Exhibit 5)
4. Since 2007, the Appellant has had no contact with her estranged spouse. (Appellant's Exhibit O)
5. In the period from [REDACTED] 2018 through [REDACTED], 2018, the Appellant notified the Department multiple times of her estrangement from her spouse and that she still lived in fear of him. (Appellant's Exhibit B)(Appellant's Exhibit J)(Appellant's Exhibit O)(Department's Exhibit 5)
6. On [REDACTED] 2018, the Department received the Appellant's Medicaid application. (Department's representative's testimony)(Department's Exhibit 1)
7. On [REDACTED] 2018, the Department granted the Appellant good cause for not seeking verification from the Appellant's estranged spouse as to whether he was willing to sell a real property located in [REDACTED]. (Department's Exhibit 5)
8. From [REDACTED] 2018 through [REDACTED] 2018, the Department issued seven *Verification We Need* requests to the Appellant, asking her to submit specific documents to the Department by its deadlines. (Department's Exhibit 4)
9. On or around [REDACTED] 2018, the Appellant notified the Department that she did not know the identity of the owner of account ([REDACTED]) and that her personal account closed in 2014. (Appellant's Exhibit D)
10. On or around [REDACTED], 2018, the Appellant notified the Department that [REDACTED] ([REDACTED]) was owned by her estranged husband; that [REDACTED] [REDACTED] life insurance was not her insurance and she had no access to it. (Department's Exhibit 8)
11. On [REDACTED] 2018, the Appellant submitted verification to the Department that she did not have any accounts or insurance policies with [REDACTED], which was

the account that paid the premiums for [REDACTED] life insurance. (Appellant's Exhibit G)

12. On [REDACTED] 2018, the Department requested that the Appellant submit verification by [REDACTED] 2018 of the following: when [REDACTED] closed; who owned [REDACTED] and [REDACTED] bank statements from [REDACTED] 2018 to the present; and proof of the face value and cash surrender value of [REDACTED] life insurance policies where the premiums were paid through [REDACTED] (Department's Exhibit 4)
13. On [REDACTED] 2018, the Department denied the Appellant's Medicaid application, issuing a *Notice of Action* to the Appellant. (Department's Exhibit 7)
14. Connecticut General Statutes § 17b-61 (a) provides that a final decision be issued within 90 days of a request for an administrative hearing. The OLCRAH received the Appellant's hearing request on [REDACTED] 2018, postmarked [REDACTED] 2018. As the delay to the close of the hearing record through [REDACTED] 2019 arose from the Appellant's request for an extension to the close of evidence and a adequate period allotted for written comment, this final decision was not due until [REDACTED] 2019. This decision therefore is timely.

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes in part designates the Department of Social Services as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.

The Department has the authority to administer and review the Appellant's Medicaid application. Conn. Gen. Stat. § 17b-80 (a).

2. Section 17b-77 (a) of the Connecticut General Statutes provides in part: "All statements made by the applicant concerning income, resources and any other matters pertaining to eligibility shall be certified to by the applicant as true and correct under penalty of false statement, and for any such certified statement which is untrue or incorrect such applicant shall be subject to the penalties provided for false statement under section 17b-97."

"The Department requires verification of information: a. when specifically required by federal or State law or regulations; and b. when the Department considers it necessary to corroborate an assistance unit's statements pertaining to an essential factor of eligibility." Uniform Policy Manual ("UPM") § 1540.05 (C)(1).

"The verification of information pertinent to an eligibility determination or a calculation of benefits is provided by the assistance unit or obtained through the direct efforts of the Department." UPM § 1540.10.

"The Department considers all evidence submitted by the assistance unit or received from other sources." UPM § 1540.10 (D).

3. "The penalty for failure to provide required verification depends upon the nature of the factor or circumstance for which verification is required: 1. If the eligibility of the assistance unit depends directly upon a factor or circumstance for which verification is required, failure to provide verification results in ineligibility for the assistance unit. Factors on which unit eligibility depends directly include, but are not limited to: a. income amounts; b. asset amounts." UPM § 1540.05 (D)(1).

"Penalties for noncooperation with the application and review processes are not imposed under the following conditions, which are considered good cause for noncompliance: 1. circumstances beyond the assistance unit's control; 2. failure of a representative to act in the best interests of an incompetent or disabled assistance unit." UPM § 3525.05 (C).

UPM § 1505.40 (B)(4) provides:

"Delays Due to Good Cause (AFDC, AABD, MA Only)

- a. The eligibility determination is delayed beyond the AFDC, AABD or MA processing standard if because of unusual circumstances beyond the applicant's control, the application process is incomplete and one of the following conditions exists:
 - (1) eligibility cannot be determined; or
 - (2) determining eligibility without the necessary information would cause the application to be denied.
- b. If the eligibility determination is delayed, the Department continues to process the application until:
 - (1) the application is complete; or
 - (2) good cause no longer exists."

The Department incorrectly determined that the Appellant did not have good cause when she fail to provide verification of financial instruments she did not own or that she believed were owned by her estranged husband, an individual previously and consistently identified to the Department as the Appellant's domestic abuser.

The Department incorrectly denied the Appellant's [REDACTED] 2018 Medicaid application.

DECISION

The issue of this hearing is REMANDED to the Department for further action.

ORDER

1. The Department will reopen the Appellant's [REDACTED] 2018 Medicaid application.
2. The Department will assign the Appellant "good cause" for failing to submit requested verification as to her estranged husband's financial accounts and other assets. These assets include, but are not limited to: the [REDACTED] and the real property located in [REDACTED]

Should the Department further wish to explore the ownership of financial accounts, insurance policies, and other assets that the Appellant has asserted that she is not the owner of or that may be owned by the Appellant's estranged husband, the Department may pursue direct third party verification with those financial institutions.

3. Within 14 calendar days of the date of this decision, or ████████ 2019, documentation of compliance with this order is due to the undersigned.

Eva Tar - electronic signature

Eva Tar
Hearing Officer

Cc: Tiffany Roman, DSS-Hartford
Jay Bartolomei, DSS-Hartford
Musa Mohamed, DSS-Hartford
Judy Williams, DSS-Hartford
Jessica Carroll, DSS-Hartford
Rachel Anderson, DSS-New Haven
Cheryl Stuart, DSS-New Haven
Lisa Wells, DSS-New Haven

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.

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 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.