

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

██████████ 2019
SIGNATURE CONFIRMATION

Client ID # ██████████
Request # 133170

NOTICE OF DECISION

PARTY

██████████
██████████
██████████
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PROCEDURAL BACKGROUND

On ██████████, 2018, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") through her Representative, ██████████, a Notice of Action ("NOA") denying her application for Long Term Care ("LTC") Medicaid benefits.

On ██████████ 2018, the Appellant's Representative requested an administrative hearing to contest the Department's decision to deny the Appellant's application for LTC Medicaid.

On ██████████ 2018, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████ 2019.

On ██████████ 2019, 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:

██████████, ██████████
██████████, ██████████

Dorothea Kelson, Department's Representative, via telephone
Zayda Santos-Smith Department's Representative

Shelley Starr, Hearing Officer

The Appellant was not present at the administrative hearing due to her institutionalization at a skilled nursing facility.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Appellant's application for LTC Medicaid due to failure to submit information needed to establish eligibility was correct.

FINDINGS OF FACT

1. The Appellant is a long term care resident of [REDACTED] of [REDACTED] [REDACTED]. (Hearing Summary; Representative's Testimony)
2. On [REDACTED] 2018, the Department received a W-1LTC application for Medicaid Long Term Care Assistance on behalf of the Appellant. (Hearing Summary; Hearing Record)
3. On [REDACTED] 2018, the Department sent the Appellant's Representative a W-1348 Verification We Need form listing the verifications required to process the application. The due date for the information was [REDACTED], 2018. (Exhibit 3: W-1348 LTC dated [REDACTED] 2018; Hearing Summary)
4. The Department received from the Representative, some of the requested documentation by the designated due date. (Hearing Summary; Hearing Record; Representative's Testimony)
5. On [REDACTED], 2018, the Department sent the Appellant's Representative a W-1348 Verification We Need form listing the verifications required to process the application. The due date for the information was [REDACTED], 2018. (Hearing Summary; Hearing Record)
6. On [REDACTED], 2018, the Department received from the Representative, some of the requested documentation by the designated due date. (Hearing Summary; Hearing Record)
7. On [REDACTED] 2018, the Department sent the Appellant's Representative a W-1348 Verification We Need form listing the verifications required to process the application. The due date for the information was [REDACTED], 2018. (Hearing Summary; Hearing Record)

8. The Department did not receive any of the requested verification by the designated [REDACTED] 2018, due date and to their knowledge, did not receive any contact or communication with the Representative. (Hearing Summary; Hearing Record)
9. On [REDACTED], 2018, the Department denied the Appellant's Long Term Care Assistance Medicaid application for failure to provide information to establish eligibility and issued a Notice of Action to the Representative, informing of the denial. (Exhibit 7: Notice of Action dated [REDACTED], 2018; Hearing Summary; Hearing Record)
10. On [REDACTED] 2018 at [REDACTED] [REDACTED] the Appellant's Representative contacted the assigned Department Representative at her provided phone number known as [REDACTED] to request an extension of time in which to provide the requested verifications for the Appellant's pending application. The Representative left a voice mail message. (Appellant's Exhibit D: [REDACTED] Telephone Log period [REDACTED] 2018 through [REDACTED] 2018; Exhibit 9: Dept. Rebuttal; Representative's Testimony)
11. The Department did not receive the Representative's voice mail message and was not aware of her attempt to communicate with the Department to request an extension. (Hearing Record; Department's Testimony; Exhibit 9: Dept. Rebuttal)
12. The issuance of this decision is timely under Connecticut General Statutes 17b-61(a), which requires that a decision be issued within 90 days of the request for an administrative hearing. The Appellant's Representative requested an administrative hearing on [REDACTED] 2018. This decision, therefore, was due no later than [REDACTED] 2019, however the hearing record was held open an additional [REDACTED] days to allow for the submission of additional evidence. Because of this [REDACTED] therefore timely. (Hearing Record)

CONCLUSIONS OF LAW

1. Section 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.

The Department correctly sent the Appellant's Representative three (3) W-1348 LTC Verification We Need form requesting information needed to establish Long Term Care Medicaid eligibility.

4. UPM § 1505.35(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 submitting verification by the deadline, or the client has been granted a 10 day extension to submit verification which has not elapsed.

UPM § 1555.10 (B) 1 & 2 provides that assistance units may establish good cause for failing to provide required verification timely. Good Cause may include, but is not limited to illness; severe weather, death in the immediate family, other circumstances beyond the unit's control.

On [REDACTED], 2018, the Department correctly informed the Appellant's Representative what was needed for the pending Medicaid application by the [REDACTED], 2018, designated due date.

On [REDACTED], 2019, the Appellant's Representative contacted the Department and left a voice mail message to request an extension of time in which to provide the requested verification.

The Department did not receive the voice mail message and incorrectly determined that the Appellant's Representative had not contacted the Department regarding the pending Medicaid application and due verification.

On [REDACTED] 2018, the Department incorrectly denied the Appellant's long term Care Medicaid application for failure to submit information needed to establish eligibility.

DISCUSSION

Based on the testimony and evidence, the Department was incorrect to deny the Appellant's Medicaid application for failure to provide information to establish eligibility.

The Representative and her [REDACTED] testified that contact was made to the Department prior to the [REDACTED] 2018, designated due date to request an extension of time in which to submit the requested information. A provided phone log confirms that on [REDACTED] 2019, at 3:27 PM, a call was made from the Representative to the Department. In addition, the evidence supports that the Representative cooperated throughout the application process by timely providing and responding to the Department's requests for information.

The Representative had good cause for not submitting the information timely to the Department as the evidence confirms that she made contact with the Department to request an extension of time to submit the requested verification. Due to circumstances beyond her control, the voice mail message was not received and the application was denied.

DECISION

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

ORDER

1. The Department shall reopen the LTC Medicaid application to pending status effective [REDACTED], 2018.
2. The Department shall continue to process the Appellant's [REDACTED] 2018, LTC Medicaid application, informing the Representative what is needed by the designated due date.
3. Proof of compliance with this order is due to the undersigned no later than [REDACTED] 2019, by proof of reopening the LTC Medicaid application effective [REDACTED], 2018.


Shelley Starr
Hearing Officer

pc: Musa Mohamud, DSS, Hartford
Judy Williams, DSS, Hartford
Jessica Carroll, DSS, Hartford
Jay Bartolomei, DSS, Hartford
Dorothea Kelson, 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 Administrative Hearings and Appeals, 55 Farmington Avenue, Hartford, CT 060105-3725.

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 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.