

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 # 136482

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

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

On ██████████, 2019, the Applicant's Conservator, ██████████ requested an administrative hearing to contest the Department's decision to deny the application for LTC Medicaid.

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

On ██████████, 2019, the Applicant's Conservator requested to reschedule the hearing.

On ██████████ 2019, 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:

[REDACTED], Appellant, Applicant's Conservator, Son
 [REDACTED], Business Office Manager
 Shannon Bennett, Department's Representative, via telephone
 Marta Karwowski, Department's Representative
 Shelley Starr, Hearing Officer

The Applicant was not present at the hearing due to her institutionalization.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Applicant's application for LTC Medicaid is correct.

FINDINGS OF FACT

1. On [REDACTED], 2010, the Applicant was admitted to [REDACTED] of [REDACTED], for long term care, with a primary medical diagnosis of Dementia. (Conservator's Testimony; Exhibit 5: W-1LTC received [REDACTED], 2018; Hearing Record)
2. The Applicant's son is her Conservator or Person and Estate, who receives the Department requests for information and notices on behalf of his mother at his [REDACTED] t. (Hearing Record; Department's Testimony; Exhibit 5: W-LTC received [REDACTED] 2018)
3. On [REDACTED] 2018, the Department received an application for Medicaid Long Term Care Assistance completed by the Conservator on behalf of the Applicant. (Hearing Summary; Exhibit 5: W-1 LTC application received [REDACTED], 2018)
4. Between the period of [REDACTED] 2018, through [REDACTED] 2018, the Department sent four W-1348 LTC Verification We Need requests for information, to the Conservator at his P.O.Box address. (Fair Hearing Summary; Exhibit 1-4; W-1348 LTC requests)
5. On [REDACTED], 2018, the Department denied the Applicant's Long Term Care Medicaid application for failure to provide information to determine eligibility. (Hearing Summary; Exhibit 6: Notice of Action dated [REDACTED], 2018; Department's Testimony)

6. On [REDACTED], 2018, the Department sent the Notice of Action to the Applicant at the Conservator's P.O. Box. (Exhibit 6: Notice of Action dated [REDACTED] 2018; Department's Testimony; Hearing Record)
7. Only the Conservator and his spouse receive mail at this P.O. Box. (Conservator's Testimony)
8. The Department was aware that the Applicant has an appointed Conservator. (Hearing Record; Department's Testimony)
9. The Department did not send the Conservator the [REDACTED], 2018, Notice of Action, informing him of the application denial. (Department's Testimony; Conservator's Testimony; Exhibit 6: Notice of Action dated [REDACTED], 2018)
10. The Conservator did not receive notification of the Applicant's [REDACTED] 2018, Long Term Care Medicaid denial. (Conservator's Testimony; Hearing Record)
11. "The issuance of this decision is timely under Connecticut General Statute 17b-61(a), which requires that a decision be issued within 90 days of the request for an administrative hearing. The Appellant requested an administrative hearing on [REDACTED] 2019. Therefore, this decision is due not later than [REDACTED] 2019." "However, the hearing, which was originally scheduled for [REDACTED] 2019, was rescheduled for [REDACTED] 2019, at the request of the Appellant, which caused the 12-day delay. Because of the 12-day delay resulted from the Appellant's request, this decision is not due until [REDACTED], 2019, and is therefore timely."

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. 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.
3. UPM § 1015.10 (C) provides the Department must send the assistance unit a notice regarding the Department's determination of the unit's initial eligibility, and, subject to conditions described in Section 1570, adequate notice before taking action to change the unit's eligibility status or the amount of benefits.

The Department was incorrect not to send to the Conservator the denial notice dated [REDACTED] 2018.

DISCUSSION

The record reflects that the Department did not properly notify the Conservator of the denial and he was, therefore, unaware of the denial.

DECISION

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

ORDER

1. The Department shall re-open the Applicant's [REDACTED], 2018, Long Term Care Medicaid application and continue to process.
2. The Department shall submit proof of compliance with this order to the Undersigned, no later than [REDACTED] 2019.


Shelley Starr
Hearing Officer

C: Tricia Morelli, DSS, Manchester
Shannon Bennett, 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.