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

[REDACTED] 2019
SIGNATURE CONFIRMATION

REQUEST #136960

[REDACTED]
[REDACTED]

NOTICE OF DECISION

PARTY

[REDACTED]
[REDACTED]
[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED] 2019, the Department of Social Services (the "Department"), sent [REDACTED] (the "Appellant") a Notice of Action stating that her application for medical assistance under the Medicaid HUSKY C program had been denied, because the value of her assets was more than the amount allowed; she did not return all of the required proofs by the due date as requested; and she did not meet program requirements.

On [REDACTED] 2019, the Appellant requested an administrative hearing to contest the Department's denial of her application for medical assistance under the Medicaid program.

On [REDACTED] 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling a hearing for [REDACTED] 2019 @ 1:00 PM to address the Department's denial of the Appellant's application for medical assistance under the Medicaid program.

On [REDACTED] 2019, in accordance with sections 17b-60, 17-61 and 4-176e to 4-189 inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing to address the Department's denial of the Appellant's application for medical assistance under the Medicaid program.

The following individuals were present at the hearing:

[REDACTED], Appellant

Tammy Ober, Representative for the Department
Hernold C. Linton, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Appellant failed to provide the Department with requested verification or information necessary to establish her eligibility for medical assistance under the Medicaid program.

FINDINGS OF FACT

1. On [redacted] 2019, the Department received the Appellant's on-line application ("ONAP") for medical assistance under Medicaid Husky C (S05) Working Disabled program. (Hearing Summary; Dept.'s Exhibit #1: ONAP)

2. The Appellant reported that she is employed by [redacted] and by [redacted], and a bank account at Santander Bank. The Department records also indicate prior accounts at Liberty Bank and Charter Oak Federal Credit Union for the Appellant. (Hearing Summary; Dept.'s Exhibit #1)

3. On [redacted] 2019, the Department sent the Appellant a Proofs We Need (Form "W-1348") requesting proof of savings account balance, proof of checking account balance, and proof of her gross earnings. (Hearing Summary; Dept.'s Exhibit #2: [redacted]19 W-1348)

4. The Department informed the Appellant that the requested information was due by [redacted] 2019, or her benefits may be delayed or denied, and that the Department would take action on her application by [redacted] 2019. (Hearing Summary; Dept.'s Exhibit #2)

5. The W-1348 that the Department sent to the Appellant did not specify the employment, account ending numbers, and bank accounts for which the Appellant needed to provide additional proofs. (Dept.'s Exhibit #2)

6. On [redacted] 2019, the Department received wage stubs for earnings for the Appellant from her [redacted] employment, and a bank statement for her checking account at Santander Bank. (Hearing Summary; Dept.'s Exhibit #4: Wage Stubs; Dept.'s Exhibit #5: Bank Statement)

7. The Department determined that wage information for the Appellant's employment at [redacted], and bank statements for her accounts at Liberty Bank and

Charter Oak Federal Credit Union were not received from the Appellant. (Hearing Summary)

8. There is no evidence that the Department sent a second W-1348 to the Appellant requesting the additional verifications that were still outstanding, after receiving some of the proofs previously requested by the Department. (See Facts # 1 to 7; Hearing Summary)

9. On ██████ 2019, the Department sent the Appellant a Notice of Action denying her application for medical assistance under Medicaid Husky C program as the value of her assets is more than the Department allows her to have, for failure to return all of the required proofs requested by the due date, and for not meeting program requirements. (Appellant's testimony; Hearing Summary; Dept.'s Exhibit #7: ████/19 Notice of Action)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes (CGS) authorizes the Commissioner of the Department of Social Services to administer the Medicaid program.

2. Section 17b-260 of the Connecticut General Statutes authorizes the Commissioner of the Department Social Services to take advantage of the medical assistance programs provided in Title XIX, entitled "grants to States for Medical Assistance Programs," contained in the Social Security Amendments of 1965.

3. Connecticut General Statues § 17b-597(a) authorizes the Department of Social Services to establish and implement a working persons with disabilities program to provide medical assistance as authorized under 42 USC 1396a(a)(10)(A)(ii), as amended from time to time, to persons who are disabled and regularly employed.

4. Uniform Policy Manual ("UPM") § 2540.85 provides there are two distinct groups of employed individuals between the ages of 18 and 64 inclusive who have a medically certified disability or blindness and who qualify for Medicaid as working individuals with disabilities. These groups are the Basic Insurance Group and the Medically Improved Group. There is a third group of employed individuals consisting of persons at least 18 years of age who have a medically certified disability or blindness who also qualify for Medicaid as working individuals with disabilities. This is the Balanced Budget Act Group. Persons in this third group may be age 65 or older.

5. 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.

6. UPM § 1010.05(A)(2) provides that the assistance unit must permit the Department to verify information independently whenever the unit is unable to provide the necessary information, whenever verification is required by law, or whenever the Department determines that verification is necessary (Cross reference: 1540).

7. 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.

8. 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.

9. **The Department failed to specifically inform the Appellant by listing the name of the employer, account ending numbers, or the name of the bank holding the account for which the Appellant needed to provide additional proofs.**

10. **While the Department did inform the Appellant that additional proofs were needed to determine her eligibility for medical assistance by a specified due date, the Department did not identify for the Appellant what she specifically had to provide to in order establish her eligibility as the Department did not list the employer and the financial institutions by name on the W-1348. Additionally, the W-1348 incorrectly provided the date of ██████ 2019 as the date by which the Department would take action on her application, but in fact her application was denied on ██████████ 2019.**

11. UPM § 1505.35(A)(1) provides that prompt action is taken to determine eligibility on each application filed with the Department.

12. UPM § 1505.35(A)(2) provides that reasonable processing standards are established to assure prompt action on applications.

13. UPM § 1505.40(A)(1) provides that prior to making an eligibility determination the Department conducts a thorough investigation of all circumstances relating to eligibility and the amount of benefits.

14. UPM § 1505.40(B)(5)(b) provides that additional 10 day extensions 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.

15. **The Department did not send follow up notice to the Appellant advising her of the need to provide additional wage stubs and bank statements to establish her eligibility for medical assistance under the HUSKY C program.**

16. **Although the Department did send the Appellant an initial W-1348 requesting the proofs needed to determine the Appellant's eligibility, the Department did not send a second W-1348 listing the employer and the financial institutions by name, after receiving some of the proofs from the Appellant, previously requested by the Department.**

17. **The Appellant has good cause for not providing the Department with the additional proofs regarding her employment and bank accounts as there were circumstances beyond her control that prevented her from providing the information as the Department did not inform her of the need to provide the information.**

18. **The Department incorrectly denied the Appellant's application medical assistance under the HUSKY C program, for failure to provide requested information, as the Department failed to provide proper notice in the form of a follow up W-1348 to the Appellant informing her of the need to provide additional proofs regarding her employment and bank accounts.**

DISCUSSION

As a result of the Alvarez vs. Aronson lawsuit the Department made revisions to the policy and procedures concerning the process of verification, [See UP-90-26; UPM § P-1540.10(4); Verification and Documentation Guidelines, 10/90]. One of these changes was the requirement that a Proofs We Need (Form "W-1348") be used when requesting verifications from an applicant/recipient. This requirement was instituted to make sure that the applicant/recipient had a clear understanding of exactly what verification is needed, the due dates, and other acceptable forms of verifications. The policy also provides for the mailing of additional W1348 forms where some of the information previously requested had been provided. In the present case the, although the Department did provide the Appellant with an initial W-1348, after receiving some of the information previously requested, the Department did not send an additional W-1348 to the Appellant explaining that additional proofs regarding her employment and bank accounts were still needed. Thus not giving proper notice to the Appellant of what she still needed to do in order to establish her eligibility for medical assistance under the HUSKY C program.

DECISION

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

ORDER

1. The Department shall reopen the Appellant's [redacted] 2019 application for medical assistance under the HUSKY C program, based on the findings of this hearing decision.

2. The Department will send the Appellant a follow up W-1348 listing name of the employer, account ending numbers, and financial institutions for which she needs to provide additional information in order to establish her eligibility, based on the findings of this hearing decision.

3. No later than fourteen (14) days from the date of this hearing decision, the Department will provide the undersigned with proof of the Department's compliance with this order.

Hernold C. Linton
Hearing Officer

Pc: **Tyler Nardine,** Social Service Operations Manager, DSS, R.O. #40, Norwich

Cheryl Stuart, Social Service Operations Manager, DSS, R.O. #40, Norwich

Fair Hearing Liaisons, DSS, R.O. #40, Norwich

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 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. 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.