

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 # 141941

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2019, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") an Assessment Outcome Notification W-1524 informing him that based on the assessment conducted, the Department determined that the client chose to remain at home without Community Based Services.

On ██████████ ██████████ 2019, the Appellant's Authorized Representative ("AREP") requested an administrative hearing on his behalf to contest the Department's determination to decline homecare services.

On ██████████ 2019, OLCRAH issued a notice scheduling an administrative hearing for ██████████, 2019.

On ██████████ 2019, the Appellant's AREP requested a continuance of the hearing, which was granted.

On ██████████ 2019, OLCRAH issued a notice scheduling an administrative hearing for ██████████ 2019.

On ██████████ 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. The following individuals were present at the hearing:

The Appellant was not present at the hearing because he is disabled and non-verbal.

██████████, Appellant's AREP  
 ██████████, Appellant's son  
 Dwight Frederick, Departments Representative Community Options Unit  
 Almelinda McLeod, Hearing Officer

The hearing record was held open for the submission of additional evidence. On ██████████, 2019, the hearing record was closed.

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether the Department's determination of declined home care services was correct.

### **FINDINGS OF FACT**

1. The Appellant's authorized representative (AREP) is ██████████. (Hearing record)
2. The Appellant's AREP applied for W01 Community based services on the Appellant's behalf. (Hearing record)
3. On ██████████ 2018, The Appellant had an assessment for the Connecticut Home Care for the Elders conducted through the access agency Western Connecticut Area Agency on Aging (WCAAA). (Hearing record, Exhibit 10-Universal Assessment)
4. On ██████████ 2019, WCAAA presented the Department with a proposed Universal Care Plan for needed services. (Exhibit 9-Universal care Plan)
5. On ██████████ 2019, the Appellant's application for W01 Community-based services was denied. (Hearing summary, Department and Appellant testimony)
6. The AREP did not request an administrative hearing for the W01 denial within 60 days of the denial. (Hearing record)
7. The AREP has not re-applied for the W01 Community Based Services Program for the Elders on behalf of the Appellant. (Hearing record)
8. On ██████████ 2019, the Department issued form # W-1524, Assessment Outcome Notification which stated that based on the assessment conducted by the nurse or social worker, it was determined that the

client chose to remain at home without community-based services. (Exhibit B)

9. There is no evidence in the assessment that the Appellant or AREP declined services and chose to remain at home. (Hearing record)
10. The W-1524 Assessment Outcome Notification for Elders was in regard to the participation in that program and that it is not a determination of Medicaid eligibility. (Exhibit B)
11. On [REDACTED] 2019, the Appellant's AREP requested an administrative hearing. A hearing was granted based on the form # W-1524, Assessment Outcome Notice. (Exhibit A)

### **CONCLUSIONS OF LAW**

1. Sec. 17b-2 (6) of the Connecticut General Statutes provides that the Department of Social Services is designated as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.
2. UPM 8040 pertains to the Connecticut Home Care Program for Elders (CHC) and provides that the state-funded portion of the program is not an entitlement program and services and access to services may be limited based on available funding.
3. UPM 8040.10 (B) (3) provides that all applicants requesting services under the Connecticut Homecare Programs for Elders must comply with the requirements for applying for Medicaid if requested by the Department.
4. UPM 8040.30 (D) provides that to be eligible for this program the individual must make an application for the Medicaid program when requested by the Department, cooperate in the eligibility process, and accept Medicaid benefits if eligible.
5. UPM 8000.01 defines an access agency as an agency which assists individuals in receiving home and community-based services by conducting assessments and developing plans of care tailored to the needs of the individuals and making arrangements with service providers.

6. UPM 8000.01 defines community-based services as social services which are prescribed in a plan of care for the purpose of allowing an otherwise institutionalized individual the alternative of remaining in the community.
7. UPM 8040.10 D. (2) provides that the assessment consists of verifying and documenting the level of need; identifying the services needed to allow the applicant to remain at home; developing an individual plan of care; determining the availability of the needed services and establishing whether the individual can be offered home and community based services or assisted living services through any of the program components.
8. **There is no evidence that the Appellant chose to remain at home without services at the time of the assessment.**
9. UPM 8040.05 (A) (3) provides the right to appeal any decision made by either the access agency, assisted living service agency or the Department of Social Services is done solely through the Administrative Appeal process, in accordance with 8040.10, to afford applicants and recipients an opportunity to review eligibility decisions.
10. UPM 8040.10 (H) (3) provides the individual may challenge any decision made by the Department of Social Services or the access agency or assisted living service agency by writing to the Department of Social Services Administrative Appeals Unit within 60 days from the date the Department mails a notice of action.
11. UPM 1570.05 (H) (1) (a) provides that the request for a Fair Hearing must be made within a specified period of time from the date that the Department mails a notice of action. For all programs except Food stamps, this period is 60 days.
12. **The AREP did not request for a fair hearing on the denial of the W01 Community-based services within 60 days of its' denial.**
13. **The AREP requested a hearing on [REDACTED], 2019, within 60 days of the W-1524 based on the Assessment Outcome Notice dated [REDACTED] 2019.**

### **DISCUSSION**

The subject of this Administrative hearing is in regard to the content of the Assessment Outcome Notice dated [REDACTED] 2019, which indicated that the Applicant chose to remain at home without community-based services. That statement is in dispute because the AREP testified that she did not make the statement and because the Appellant is non-verbal, neither did he. A thorough evaluation of the Universal Assessment was completed by this hearing officer and I found there was no evidence in this hearing record where the Appellant declined services. The notice reason given on the Assessment Outcome Form W-1524 was not substantiated by the hearing record.

It must be noted that Medicaid must be secured in order for the Appellant to receive services under the Connecticut Home Care Program for Elders. Therefore, the AREP is strongly encouraged to re-apply for the Connecticut Home Care Program for Elders as soon as possible.

### **DECISION**

The Appellant's appeal is REMANDED to the Department for a new assessment.

### **ORDER**

1. The Department shall conduct another assessment and provide the Appellant with a new Assessment Outcome Form notice in keeping with Departmental policy.
2. Compliance with this order shall be sent to the undersigned no later than [REDACTED] 2019.

  
\_\_\_\_\_  
Almelinda McLeod  
Hearing Officer

CC: [Hearings.commops@ct.gov](mailto:Hearings.commops@ct.gov)  
Dwight Frederick, Community Options Unit

### **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.