

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 #: 0 ██████████
Hearing ID #: 045068

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") discontinuing her medical assistance effective ██████████.

On ██████████, the Appellant requested an administrative hearing to contest the Department's decision to discontinue her benefits effective ██████████.

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

On ██████████, 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:

██████████, the Appellant
Joseph Alexander, DSS Hearing Liaison, Bridgeport,
Princess O'Reggio, DSS Hearing Liaison, Bridgeport
Maureen Foley-Roy, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether the Department was correct when it discontinued the Appellant's medical benefits effective [REDACTED]

FINDINGS OF FACT

1. The Appellant is 64 years old and disabled. She was last employed in September of 2017. (Appellant's testimony)
2. The Department certified the Appellant for medical assistance through the S05 Working Disabled program from [REDACTED] through [REDACTED]. (Exhibit 1: Notice of Renewal of Eligibility and Exhibit 3: MA EDG Summary [REDACTED] - [REDACTED] 9)
3. On [REDACTED], the Department sent the Appellant a renewal of eligibility form. (Exhibit 1)
4. On [REDACTED], the Department received the Appellant's completed eligibility renewal form. (Exhibit 8: Case Notes)
5. On [REDACTED], the Department processed the Appellant's renewal form and determined that the Appellant was ineligible for the S05 Medicaid for the Working Disabled program. The worker processing the renewal noted that the medical coverage would close on [REDACTED]. (Exhibit 8)
6. On [REDACTED], the Appellant contacted the Department regarding the discontinuance. The person that she spoke to advised her that her medical assistance would be discontinued on [REDACTED]. The Appellant clarified the discontinuance effective date as [REDACTED] several times with the Department staff. She then changed her medical appointments from September to August to ensure that she would have medical transportation coverage and ordered some medical supplies. (Appellant's testimony and hearing request)
7. The Appellant used medical transportation for 3 medical appointments in August. The medical transportation company advised her that if she does not have Medicaid coverage, the cost of such medical transportation would be \$760. (Appellant's testimony)
8. The Appellant's testimony is credible. (Hearing Record)
9. On [REDACTED], the Appellant had a conversation with one of her medical providers who advised her that the effective date of the discontinuance of her medical assistance was [REDACTED]. (Appellant's testimony)

10. On [REDACTED], the Appellant again contacted the Department who advised her that she would be ineligible for the S05-Medicaid for the Working Disabled effective [REDACTED] but that she would be eligible for Medicaid with a spenddown. The Appellant cancelled medical appointments and corresponding transportation for the remainder of the month of August. (Exhibit 8 and Appellant's testimony)
11. The Appellant is claiming that the Department should be precluded from denying medical benefits for the month of [REDACTED] because the Appellant relied on the Department's inaccurate representation that she would have medical coverage for [REDACTED] [REDACTED] when she scheduled her medical appointments. (Appellant's testimony and hearing request)
12. The issuance of this decision is timely under Connecticut General Statute Section 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]. This decision is due no later than [REDACTED] and therefore, is timely.

CONCLUSIONS OF LAW

1. "The Department of Social Services is designated as the state agency for the administration of...6) the Medicaid program pursuant to Title XIX of the Social Security Act;...." Conn. Gen. Stat. § 17b-2(6)
2. **"The department's uniform policy manual ("UPM") is the equivalent of a state regulation and, as such, carries the force of law." *Bucchere v. Rowe*, 43 Conn. Supp. 175, 178 (1994) (citing Conn. Gen. Stat. § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A.2d 712 (1990)).**

"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." UPM § 2540.85

"An individual who meets the employment criterion but then loses employment through no fault of his or her own, for reasons such as a temporary health problem or involuntary termination, **continues to meet the employment criterion for up to one year from the date of the loss of employment.** The individual must maintain a connection to the labor market by either intending to return to work as soon as the health problem is resolved, or by making a bona fide effort to seek employment upon an involuntary termination." (Emphasis added) UPM § 2540.85(A)(1)(c)

The Department was correct when it determined that the Appellant was ineligible for the S05 Medicaid for the Working Disabled.

3. Black's Law Dictionary defines estoppel as "An affirmative defense alleging good-faith reliance on a misleading representation and an injury or detrimental change in

position resulting from that reliance.” *Estoppel*, Black’s Law Dictionary (9th ed. 2009)

“Under our well-established law, any claim of estoppel is predicated on proof of two essential elements: the party against whom estoppel is claimed must do or say something calculated or intended to induce another party to believe that certain facts exist and to act on that belief; and the other party must change its position in reliance on those facts, thereby incurring some injury.” *Kimberly-Clark Corp. v. Dubno*, 204 Conn. 137, 148 (1987) (quoting *Zoning Commission v. Lescynski*, 188 Conn. 724, 731 (1982) (internal citations omitted)).

Additionally, the Connecticut Supreme Court wrote that “estoppel against a public agency is limited and may be invoked: (1) only with great caution; (2) only when the action in question has been induced by an agent having authority in such matters; and (3) only when special circumstances make it highly inequitable or oppressive not to estop the agency,” and “where the party claiming estoppel would be subjected to substantial loss if the public agency were permitted to negate the acts of its agents.” *Id.* Moreover, the Court added that the person claiming estoppel has the burden “to show that he exercised due diligence to ascertain the truth and that he not only lacked knowledge of the true state of things but had no convenient means of acquiring that knowledge.” *Id.* (quoting *Reinke v. Greenwich Hospital Ass’n*, 175 Conn. 24, 28-29 (1978)) (internal quotation marks and citations omitted).

The Appellant has established a valid claim for equitable estoppel. The Department incorrectly advised the Appellant of the effective date of the discontinuance of her medical assistance. The testimony and evidence demonstrates that the Appellant demonstrated due diligence to ascertain the date of the discontinuance.

DISCUSSION

The Department’s policy regarding an extension for Medicaid for the Employed Disabled clearly states that individuals, who have been receiving medical assistance under the program and then lose their job, can continue to receive assistance under the program for up to one year, even though they are not employed. It appears that the Appellant had been receiving this extended medical benefit for nearly two years. The Department could not clearly explain why this was and it was not the issue of the hearing. The bottom line is that the Appellant had not worked since [REDACTED]. She was clearly not eligible for Medicaid for the Working Disabled and had exhausted the corresponding one year of transitional medical assistance. In general, with transitional medical assistance programs, individuals are advised at the time of the grant that the medical coverage is for a specific time period and that qualifies as the Department giving notice as to when the coverage will end. The Department is not required to send a ten-day adverse action notice in such a case.

Although the Appellant did not use the legal term “equitable estoppel”, that is, in effect what the Appellant claimed when she described how she had been hurt financially by relying on the Department’s inaccurate representation of the effective date of the discontinuance. The Department’s notices were unclear regarding the effective date of the termination of medical coverage. When the Appellant called for clarification, she was told by the Department that she would have medical assistance through [REDACTED]. She relied on that information when she scheduled her medical appointments and corresponding transportation to such appointments.

The Appellant is entitled to benefits for the month of [REDACTED] due to her claim of equitable estoppel, because on more than one occasion, she asked, and the Department gave the Appellant incorrect information.

DECISION

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

ORDER

The Department is ordered to authorize medical benefits for the Appellant for the period from [REDACTED] through [REDACTED]. Compliance with this order is due by October 4, 2019 and shall consist of documentation that the Appellant has medical coverage for the month of [REDACTED].



Maureen Foley-Roy,
Hearing Officer

CC: Yecenia Acosta, DSS Operations Manager, R. O. #30, Bridgeport
Joseph Alexander, DSS Fair Hearing Liaison, Bridgeport
Princess O’Reggio, DSS Fair Hearing Liaison, Bridgeport.

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..

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.