

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

██████████, 2020
Signature confirmation

Case: ██████████
Client: ██████████
Request: 158019

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2020, the Department of Social Services (the "Department") issued a *Notice of Action* denying Marie Vilbon's (the "Appellant") ██████████ 2020 HUSKY-C Medicaid application for home- and community-based services.

On ██████████ 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") received the Appellant's signed request for an administrative hearing. On ██████████, 2020, the OLCRAH issued a *Notice of Administrative Hearing* to the Appellant scheduling an administrative hearing to be held by telephone conferencing on ██████████ 2020.

On ██████████ 2020, ██████████, the Appellant's son and authorized representative, withdrew the Appellant's hearing request. On ██████████ 2020, the OLCRAH issued a *Confirmation of Withdrawal of Hearing Request* to the Appellant confirming the withdrawal of her hearing request.

On ██████████ 2020, ██████████ rescinded his withdrawal of the Appellant's hearing request.

On ██████████ 2020, the OLCRAH issued a *Notice of Administrative Hearing* to the Appellant scheduling an administrative hearing to be held by telephone conferencing on ██████████, 2020.

On ██████████, 2020, in accordance with sections 17b-60, 17b-61, and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, the OLCRAH held an administrative hearing. The following individuals participated by telephone conferencing:

██████████, Appellant's Representative (son)
Dawn Rodriguez, Eligibility Services Worker, Department's Representative

Eva Tar, Hearing Officer

The hearing record closed on [REDACTED] 2020.

STATEMENT OF ISSUE

The issue is whether the Department correctly denied the Decedent's [REDACTED] 2020 HUSKY-C Medicaid application on [REDACTED] 2020.

FINDINGS OF FACT

1. The Appellant's Representative is the Appellant's adult son and sponsor. (Appellant Representative Testimony) (Department Exhibit 7)
2. On [REDACTED] 2020, the Department received the Appellant's HUSKY-C Medicaid application. (Department Exhibit 2)
3. The Appellant submitted a copy of her expired Permanent Resident Card with her [REDACTED], 2020 HUSKY-C Medicaid application. (Department Exhibit 4)
4. On [REDACTED] 2020, the Department issued a *Verification We Need (W-1348LTC)* to the Appellant giving a deadline of [REDACTED] 2020 for submission of six items. (Department Exhibit 1)
5. As of [REDACTED] 2020, the Appellant's Representative did not submit to the Department any of the items requested on the [REDACTED] 2020 *Verification We Need (W-1348LTC)*. (Appellant Representative Testimony)
6. On [REDACTED], 2020, the Department denied the Appellant's HUSKY-C Medicaid application. (Department Exhibit 3)
7. Connecticut General Statutes § 17b-61 (a), as amended on passage by Section 309 of *Public Act No. 19-117 (January Session)*, provides the deadline for the rendering of a hearing decision.

Executive Order 7M, Section 3, dated March 25, 2020, extends the period for rendering a hearing decision. Executive Order 7DDD, Section 2, dated June 29, 2020 in part authorizes a further extension to the time frames provided by Executive Order 7M, Section 3, dated March 25, 2020 that would have lapsed on June 28, 2020.

ORDER, (Commissioner Deidre S. Gifford, 4/13/2020) provides in part: "Section 17b-61(a)'s timeframe for the commissioner or commissioner's designated hearing officer to render a final decision is extended from 90 to 'not later than 120 days' after the date the commissioner receives a request for a fair hearing pursuant to Section 17b-60...."

On [REDACTED] 2020, the OLCRAH received the Appellant's hearing request. This hearing decision would have become due with the extended deadlines on [REDACTED] 2020.

However, the Appellant's authorized representative withdrew the Appellant's hearing request, then rescinded the withdrawal, causing a postponement of the initial [REDACTED] 2020 hearing date to [REDACTED] 2020. This [REDACTED]-day postponement also extended the deadline for the final decision accordingly, to [REDACTED] 2020. This final decision is timely.

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes designates the Department as the state agency for the administration of so identified state and federal programs.

"The Commissioner of Social Services may make such regulations as are necessary to administer the medical assistance program...." Conn. Gen. Stat. § 17b-262.

"The department's uniform policy manual 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)).

2. Section 17b-257a (a) of the Connecticut General Statutes addresses qualified aliens with respect to medical assistance.

Section 3005.08 of the Uniform Policy Manual ("UPM") provides the Medicaid program's technical eligibility requirements that apply to eligible non-citizens.

"Non-citizens are required to submit sufficient documentation to the Department to establish eligible non-citizen status." UPM § 3099.03 B.1.

As a condition of Medicaid program eligibility, the Appellant had to prove to the Department that she was a qualified alien.

3. Section 17b-261 (a) of the Connecticut General Statutes, as amended by the 2020 Supplement to the General Statutes of Connecticut (revised to January 1, 2020) addresses medical assistance.

Section 5020.60 of the Uniform Policy Manual addresses the treatment of the income of sponsors of non-citizens with respect to the Medicaid program.

"Prior to making an eligibility determination the Department conducts a thorough investigation of all circumstances relating to eligibility and the amount of benefits." UPM § 1505.40 A. 1.

The Department acted within its authority to review the Appellant's [REDACTED] 2020 HUSKY-C Medicaid application to determine whether the Appellant's personal income and income deemed from her sponsor were within the Medicaid program income limits.

4. "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 (cross reference: 1555)." UPM § 1010.05 A.1.

"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." UPM § 1505.40 B. 5. b.

The Department's [REDACTED] 2020 Verification We Need (W-1348LTC) correctly gave the Appellant 10 days to submit requested documentation.

5. "The applicant's failure to provide required verification by the processing date causes: (1) one or more members of the assistance unit to be ineligible if the unverified circumstance is a condition of eligibility; or (2) the circumstance to be disregarded in the eligibility determination if consideration of the circumstance is contingent upon the applicant providing verification." UPM § 1505.40 B.1.c.

The Department correctly denied the Appellant's incomplete [REDACTED] 2020 HUSKY-C Medicaid application on [REDACTED] 2020, as the Department had not received at least one document requested on its [REDACTED] 2020 Verification We Need (W-1348LTC).

DECISION

The Appellant's appeal is DENIED.

Eva Tar-electronic signature
Eva Tar
Hearing Officer

Pc: [REDACTED]
Dawn Rodriguez, LTSS Unit, DSS-Hartford
Jay Bartolomei, DSS-Hartford
Musa Mohamud, DSS-Hartford
Judy Williams, DSS-Hartford
Jessica Carroll, DSS-Hartford
Yecenia Acosta, DSS-Stamford

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.