

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

██████████ 2021
SIGNATURE CONFIRMATION

CLIENT ID #: ██████████
HEARING ID #: 175618

NOTICE OF DECISION

PARTY

██████████
██████████
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██████████

PROCEDURAL BACKGROUND

On ██████████ 2021, the Department of Social Services (the "Department") issued a notice to ██████████ ██████████ (the "Appellant") denying her application for emergency medical coverage because her hospital visit was deemed a non-emergency.

On ██████████ 2021, the Appellant requested an administrative hearing to appeal the Department's decision that she was not eligible for emergency medical coverage.

On ██████████ 2021, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████ 2021. The hearing was scheduled to be held telephonically due to the COVID-19 pandemic.

On ██████████ 2021, 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 Appellant did not object to a telephonic hearing.

The following individuals were present at the hearing:

██████████ Appellant

Aya Atumi, Arabic interpreter, ITI
Althea Forbes Francis, Department's Hearing Liaison
John Moriarty, Colonial Cooperative Care
Brenda Moriarty, Colonial Cooperative Care
James Hinckley, Hearing Officer

The Appellant declined to have the hearing decision translated into her native language.

STATEMENT OF THE ISSUE

The issue is whether the Department was correct when it determined that the Appellant's medical services did not qualify to be paid as emergency medical services pursuant to Medicaid.

FINDINGS OF FACT

1. The Appellant is a 40-year-old female. (Hearing Record)
2. The Appellant has the immigration status of Lawful Permanent Resident of the U.S. since [REDACTED] 2019. (Hearing Record)
3. The Appellant's current immigration status prevents her from qualifying for Medicaid. (Hearing Liaison's testimony)
4. On [REDACTED] 2020, the Appellant visited the emergency room at [REDACTED] Hospital. (Hearing Record)
5. On [REDACTED] 2021, the Appellant, through her authorized representative, [REDACTED] Hospital, filed an online application with the Department for emergency medical coverage for the services she received on [REDACTED] 2020. (Ex. 1: Online application form)
6. Colonial Cooperative Care ("CCC") is the Department's contractor for determining whether medical services provided to an applicant meet the criteria for emergency services as defined in federal law. (Hearing Record)
7. On [REDACTED] 2021, the Department sent the Appellant's [REDACTED] Hospital medical records for her [REDACTED] emergency room visit to CCC for review. (Hearing Record)
8. The Appellant presented to the emergency room on [REDACTED] 2020 with complaints of one month of increasing abdominal pressure and pain with frequent urination and a burning sensation. (Ex. 2: [REDACTED] Hospital Emergency Department Report)

9. The Appellant had no fever and no respiratory or cardiovascular symptoms at the time of her emergency room visit. (Ex. 2)
10. The Appellant went to the emergency room because she did not have a primary care physician. (Appellant's testimony)
11. The Emergency Department Report found that the Appellant had cystitis likely caused by infection. She was prescribed antibiotics and provided with a list of local primary care physicians. It was recommended that she see a PCP for follow-up and that she have a repeat urinalysis. (Ex.2)
12. The standard applied by CCC to determine "sudden onset" of symptoms is if they have appeared within 48 hours. (Ms. Moriarty's testimony)
13. On ██████████ 2021, CCC issued its decision that the Appellant's medical information submitted did not meet the criteria for emergency medical services and was therefore not covered. (Ex. 6: CCC Emergency Medical Non-Citizen Determination)
14. On ██████████ 2021, the Department issued a notice to the Appellant that her application for emergency medical coverage was denied because, based on her health condition and the medical services provided, her hospital visit was deemed a non-emergency. (Ex. 9: W-3016 Notification from Department of Social Services)

CONCLUSIONS OF LAW

1. The Department is the state agency that administers the Medicaid program pursuant to Title XIX of the Social Security Act. The Department may make such regulations as are necessary to administer the medical assistance program. Connecticut General Statutes (Conn. Gen. Stat). § 17b-2; Conn. Gen. Stat. § 17b-262
2. Section 440.255(b) of Title 42 of the Code of Federal Regulations ("CFR") provides, in relevant part, as follows:

Aliens granted lawful temporary resident status, or lawful permanent resident status under sections 245A, 210 or 210A of the Immigration and Nationality Act, who are not in one of the exempt groups described in §§ 435.406(a)(3) and 436.406(a)(3) and who meet all other requirements for Medicaid will be eligible for the following services –

- (1) Emergency services required after the sudden onset of a medical condition manifesting itself by acute

symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in:

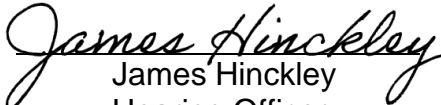
- (i) Placing the patient's health in serious jeopardy;
- (ii) Serious impairment to bodily functions; or
- (iii) Serious dysfunction of any bodily organ or part.

...

3. **The Appellant's services were not to treat acute medical symptoms with sudden onset; the Appellant's symptoms began one month before her emergency room visit. The Appellant's primary reason for visiting the emergency room was that she did not have a primary care physician, otherwise her medical symptoms could have been adequately treated in a non-emergency setting.**
4. **The Department was correct when it determined that the Appellant's medical services did not qualify to be paid as emergency medical services pursuant to Medicaid because they did not meet the criteria outlined in 42 CFR § 440.255(b).**

DECISION

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


James Hinckley
Hearing Officer

cc: Althea Forbes-Francis

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, 165 Capitol Avenue, 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.