

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

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

CASE # ██████████
CLIENT ID # ██████████
REQUEST # ██████████

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████, 2021, the Department of Social Services (the "Department") issued a Notice of Action ("NOA") to ██████████ (the "Appellant") and a copy of the NOA to ██████████, the facility the Appellant is residing at, regarding the denial of Husky C-Long Term Care Facility Residents Under Special Income Level ("L01").

On ██████████, 2021, an administrative hearing was requested to appeal the denial of L01 coverage.

On ██████████, 2021, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the Administrative Hearing for ██████████, 2021.

On ██████████ 2021, 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 hearing was held telephonically at the request of Senior Planning Services with no objection from any party. The following individuals participated in the hearing:

3. On [REDACTED], 2021 the Department sent a second W-1348LTC to the Appellant's representative requesting items listed as "A", "B", "C", "D", "E" and "F". The information was due to be returned to the Department by [REDACTED] 2021: (Department's Exhibit 5: W-1348LTC Request #2)
4. On [REDACTED], 2021 the Department received items listed as "C" and "D"; an updated W-1348LTC was sent to the Appellant's representative requesting items listed as "A", "B", "E" and "F". The information was due to be returned to the Department by [REDACTED], 2021. (Department's Exhibit 6: W-1348LTC Request #2A)
5. On [REDACTED], 2021 the Department sent a third W-1348LTC to the Appellant's representative requesting items listed as "A", "B", "E" and "F" which were due to be returned to the Department by [REDACTED] 2021. (Department's Exhibit 7: W-1348LTC Request #3)
6. On [REDACTED] 2021, the Department sent a fourth W-1348LTC to the Appellant's representative requesting items listed as "B", "E" and "F". The information was due to be returned to the Department by [REDACTED] 2021. (Department's Exhibit 8: W-1348LTC Request #4)
7. The Department did not receive any further documentation from the Appellant or her representatives after the fourth W-1348LTC was sent on [REDACTED] 2021.
8. On [REDACTED], 2021, the Department denied the L01 coverage and issued an NOA explaining the reason for the denial was due to failure to provide information needed to establish eligibility.
9. The issuance of this decision is timely under Connecticut General Statutes 17b-61(a), which requires that a decision be issued within [REDACTED] days of the request for an Administrative Hearing. The hearing request was received on [REDACTED], 2021. The decision must be issued on or before [REDACTED], 2021. However, the Hearing Officer left the hearing record open an additional [REDACTED] days to allow for the submission of documents from the Appellant's representative. This decision would not have become due until [REDACTED], 2021 and is therefore timely.

CONCLUSIONS OF LAW

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

2. The Department's Uniform Policy Manual ("UPM") "is the equivalent of the state regulation and, as such, carries the force of law." *Bucchere v. Rowe*, 43 Conn. Supp. 175, 177 (1994) (citing Conn. Gen. Stat. 17-3f(c) [now 17b-10]; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A. 2d 712 (1990)).
3. 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.
4. UPM § 1540.05(C) provides for when verification is required:
 1. The Department requires verification of information:
 - a. when specifically required by federal or State law or regulations; and
 - b. when the Department considers it necessary to corroborate an assistance unit's statements pertaining to an essential factor of eligibility

The Department correctly sent multiple W-1348LTC verification request forms requesting information needed to establish eligibility

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 § 1505.40 (B)(5)(a) provides that for delays due to insufficient verification, regardless of the standard of promptness, no eligibility determination is made when there is insufficient verification to determine eligibility when the following has occurred:
 1. the Department has requested verification; and
 2. at least one item of verification has been submitted by the assistance unit within a time period designated by the Department but more is needed

The Department correctly determined insufficient verification had been received therefore the Department correctly allowed for multiple additional 10-day extensions for the submission of outstanding verifications.

7. UPM § 1540.05(D)(1) states, "If the eligibility of the assistance unit depends directly upon a factor or circumstance for which verification is required, failure to provide verification results in ineligibility for the assistance unit".
8. UPM § 1505.35(D)(2) provides that the Department determines eligibility within the standard of promptness for AFDC, AABD, and MA programs except when verification needed to establish eligibility is delayed and one of the following is true: the client has

good cause for not submitting verification by the deadline, or the client has been granted a 10-day extension to submit verification which has not elapsed.

9. 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 with each extension period.
10. UPM § 3525.05 (C) provides for good cause for noncompliance with the application process: Penalties for noncooperation with the application and review processes are not imposed under the following conditions, which are considered good cause for noncompliance:
 1. circumstances beyond the assistance unit's control
 2. failure of a representative to act in the best interests of an incompetent or disabled assistance unit

The Appellant failed to submit at least one item of verification by the [REDACTED] 2021 final due date.

The Department correctly denied the Husky C-Long Term Care Facility Residents Under Special Income Level (L01) coverage for failure to provide information needed to establish eligibility.

DISCUSSION

The Appellant's representative testified that the Appellant's court appointed conservator did not cooperate with obtaining the information requested by the Department which necessitated a new conservator to be appointed. In addition, the Appellant's representative confirmed via a fax submitted to the Hearing Officer on [REDACTED] 2021, that the Appellant's [REDACTED] Case Manager had not communicated to the Department's representative that the reason for the delay on providing the specific requested items was due to lack of cooperation/communication with the original court appointed conservator. Neither the Appellant nor her representatives requested an extension of time to provide the outstanding information requested on the fourth and final W-1348LTC request. The undersigned Hearing Officer does not find there was good cause for noncompliance with the application process.

DECISION

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



Joseph Alexander
Administrative Hearing Officer

CC: Rachel Anderson, Operations Manager, DSS, New Haven Regional Office
Mathew Kalarickal, Operations Manager, DSS, New Haven Regional Office
Lisa Wells, Operations Manager, DSS, New Haven Regional Office
Elizabeth Clark, Fair Hearing Liaison, DSS, New Haven Regional Office

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 §4-1181a (a) of the Connecticut General Statutes.

Reconsideration requests should include specific grounds for the request: for example, indicate what error of fact or law, 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 with 45 days of the mailing of this decision, or 45 days after the agency denies 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 06105-3725. 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 her 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.

