

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

████████████████████
SIGNATURE CONFIRMATION

CASE # ██████████
CLIENT ID # ██████████
REQUEST # 199258

NOTICE OF DECISION

PARTY

██████████
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████████████████████

PROCEDURAL BACKGROUND

On ██████████, the Department of Social Services (the “Department”) sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) denying her HUSKY C Medicaid application for Long Term Support Services (“LTSS”).

On ██████████, the Appellant requested an administrative hearing to contest the Department’s decision to deny her HUSKY C LTSS application.

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 4-184, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing by telephone.

The following individuals participated in the hearing:

- ██████████, the Appellant
- ██████████, Business Office Assistant, St. Joseph’s Living Center
- ██████████, Social Worker, St. Joseph’s Living Center
- ██████████, Business Office Director, St. Joseph’s Living Center
- Lisa Kellman, Department’s Representative
- Sara Hart, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether the Department correctly denied the Appellant's Medicaid application due to failure to provide information needed to establish eligibility.

FINDINGS OF FACT

1. The Appellant is ■ years old (DOB ■) and widowed. (*Appellant's Testimony*)
2. On ■, the Appellant was admitted to ■ (the "facility"), a skilled nursing facility. (*Hearing Record, Facility Testimony*)
3. The Appellant does not have a conservator or Power of Attorney. (*Hearing Record*)
4. On ■, the Appellant submitted an Online application ("ONAP") requesting Long-Term Services and Support ("LTSS") Medicaid coverage. (*Exhibit 9: Online Application, Hearing Record*)
5. The Appellant uploaded the following documents with her ONAP: documentation of banking transactions over \$5,000, Bank of America statements for account ending in ■ for the period of November 26, 2019, through May 25, 2022, Bank of America statement for account ending in ■ for the period of November 9, 2017, through December 7, 2017, Bank of America statement for account ending in ■ for the period of November 29, 2018, through December 27, 2018, as well as an annuity declaration and a completed Department form W298. (*Appellant's Exhibit A2: Verification Checklist and Document Submission, Rankel Testimony*)
6. The hearing record lacks evidence of a Departmental review of the Appellant's June 17, 2022, uploaded documents. (*Hearing Record*)
7. The Appellant appointed the facility as her Authorized Representative ("AREP"). (*Exhibit 9, Exhibit 10: W298*)
8. On ■, the Department reviewed the Appellant's application and emailed a Verifications We Need form ("W1348LTC") to the Appellant's AREP. Under "General Information", the Department checked the following boxes: POA/Conservatorship, death certificate if widowed, Medicare card, United medical insurance card, United premium amount, and completed form W1685. Under "Income" the Department checked the following box: gross pension for you and your spouse SSA Benefits Letter. Under "Assets" the Department checked the following box: For all accounts (including those listed below), provide statements as indicated: Patient Needs Account – facility, bank statements ending December 2017, 2018, 2019, and May 2020 to current or closed statement for the following Bank of America accounts: ■, ■, ■, ■, ■, ■, ■. The form gave a due date of ■. (*Exhibit 5: Case Notes, Exhibit 7: W1348LTC ■*)

9. The Department listed property on the W1348LTC but did not check the box indicating a request for verifications regarding the status of the listed properties. The following property was listed on the W1348LTC: [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]. (Exhibit 7)
10. Funds were withdrawn fraudulently from the Appellant's Bank of America account ending in [REDACTED] in [REDACTED] and [REDACTED] of [REDACTED] by someone other than the Appellant. The Appellant filed a police report regarding the theft on or around [REDACTED]. ([REDACTED] Testimony, [REDACTED] Testimony)
11. Bank of America initiated an account freeze on the Appellant's account ending in [REDACTED] the bank requires the Appellant to produce a birth certificate to regain access to the account. ([REDACTED] Testimony)
12. The Appellant does not possess valid identification and is having difficulty obtaining a copy of her birth certificate from the state of [REDACTED]. The Appellant has been unable to attend scheduled appointments to obtain valid photo identification due to her health and a COVID-19 facility outbreak. (Exhibit 8a: 08/04/2022 [REDACTED] letter to the Department, [REDACTED] Testimony)
13. On [REDACTED], the AREP emailed the Department requesting instruction regarding how to best provide the requested verifications and indicating that Bank of America account [REDACTED] documents had previously been uploaded to the Appellant's online account. (Appellant's exhibit A: [REDACTED] email record).
14. The hearing record lacks evidence of a Departmental response to the AREP's [REDACTED] [REDACTED], email. (Hearing Record)
15. On [REDACTED], the Department issued the Appellant a NOA denying the Appellant's HUSKY C LTSS application due to failure to provide all the required information by the due date. (Exhibit 1: NOA [REDACTED])
16. On [REDACTED], the AREP emailed the Department requesting to reopen the Appellant's LTSS application. The email included an explanation of the difficulties the Appellant encountered attempting to obtain identification and included details and additional verifications regarding the status of several Bank of America accounts, the Appellant's SSA statement, and United Health insurance verification. (Exhibit 8: [REDACTED] [REDACTED] to Kellman email and attachments)
17. The hearing record lacks evidence of a Departmental response to the AREP's [REDACTED] [REDACTED] email. (Hearing Record)

18. On [REDACTED], the AREP emailed the Department stating that the Appellant was ill and unable to obtain photo identification. The facility further indicated that it would be pursuing the assignment of a POA for the Appellant and requested an extension to obtain the required information. (*Exhibit 6: [REDACTED] to Kellman email*)
19. On [REDACTED], the Department responded to the AREP's [REDACTED], email advising the AREP that the Appellant's LTSS application was denied on [REDACTED], and advising the AREP to reapply. (*Exhibit 3: 08/11/2022 Kellman to [REDACTED] email*)
20. The issuance of this decision is timely under Connecticut General Statutes §17b-61(a), which requires that the Department render a decision within 90 days of the request for an administrative hearing. The Appellant requested an administrative hearing on [REDACTED], with this decision due [REDACTED]. The hearing record remained open for an additional four days, therefor this decision is due no later than [REDACTED]

CONCLUSIONS OF LAW

1. Section 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.

Section 17b-260 of the Connecticut General Statutes provides the Commissioner of Social Services is authorized to take advantage of the medical assistance programs provided in Title XIX, entitled "Grants to States for Medical Assistance Programs", contained in the Social Security Amendments of 1965 and may administer the same in accordance with the requirements provided therein, including the waiving, with respect to the amount paid for medical care, of provisions concerning recovery from beneficiaries or their estates, charges and recoveries against legally liable relatives, and liens against property of beneficiaries

The Department has the authority to administer and determine eligibility for the Medicaid program.

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)).
3. UPM § 1005.05(A) provides that the assistance unit has the right to apply for assistance under any of the programs administered by the Department.

Section 17b-261a(d)(1) of the Connecticut General Statutes provides for purposes of this subsection, an “institutionalized individual” means an individual who has applied for or is receiving (A) services from a long-term care facility, (B) services from a medical institution that is equivalent to those services provided in a long-term care facility, or (C) home and community-based services under a Medicaid waiver.

The Appellant is an institutionalized individual of a long-term care facility seeking HUSKY C LTSS Medicaid coverage.

4. UPM § 1500.01 provides that the date of the application is the date a formal written request for assistance is filed with the Department in accordance with the rules established for the program for which the application is made.

UPM § 1505.10(D)(1) provides for filing an application. For AFDC, AABD and MA applications, except for the Medicaid coverage groups noted below in 1510.10 D.2, the date of application is considered to be the date that a signed application form is received by any office of the Department.

The Department correctly determined the Appellant filed a HUSKY C LTSS application on [REDACTED].

5. UPM § 1540.10 provides for unit and agency responsibilities. The verification of information pertinent to an eligibility determination or a calculation of benefits is provided by the assistance unit or obtained through the direct efforts of the Department.

UPM § 1540.10(A) provides the assistance unit bears the primary responsibility for providing evidence to corroborate its declarations.

UPM § 1540.10(B) provides the assistance unit may submit any evidence that it feels will support the information provided by the unit.

UPM § 1540.10(D) provides the Department considers all evidence submitted by the assistance unit or received from other sources.

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 that the Department requires to determine eligibility and calculate the amount of benefits.

The Appellant correctly included documentary evidence with her ONAP.

The Department failed to review the Appellant’s evidence submitted on [REDACTED]

6. 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.

The Department correctly issued a W1348LTC Request for Verification on [REDACTED], however, the Department incorrectly requested information that had previously been submitted by the Appellant on [REDACTED].

7. UPM § 1505.40(B)(5) provides for delays due to insufficient verification. a. 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 period designated by the Department, but more is needed. b. 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.

The Appellant correctly provided numerous items of verification on [REDACTED], and the Department failed to review the documents. The facility correctly alerted the Department of the [REDACTED] document submission in an email on [REDACTED]. The Department failed to respond to the facility's email and failed to grant the Appellant an extension of time and issue an updated W1348.

8. UPM § 1505.35(C) provides that the following promptness standards be established as maximum times for processing applications: forty-five calendar days for AABD or MA applicants applying based on age or blindness.

UPM § 1505.35(D)(2) provides that the Department determines eligibility within the standard of promptness for the 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.

UPM § 1505.40(B)(4)(a) provides that the eligibility determination is delayed beyond the AFDC, AABD or MA processing standard if because of unusual circumstances beyond the applicant's control, the application process is incomplete and one of the following conditions exists:

1. eligibility cannot be determined; or
2. determining eligibility without the necessary information would cause the application to be denied.

UPM § 1505.40(B)(4)(b) provides that if the eligibility determination is delayed, the Department continues to process the application until:

1. the application is complete; or
2. good cause no longer exists.

The Department incorrectly denied the Appellant's application on [REDACTED]. The Appellant and her representatives proactively provided some of the information required to determine HUSKY C LTSS eligibility and have satisfactorily demonstrated that they continue to make reasonable efforts to obtain additional information that the Department has requested.

DISCUSSION

The evidence provided by both the Department and the Appellant establishes that the Department's claim that the Appellant failed to provide any of the requested verifications is inaccurate.

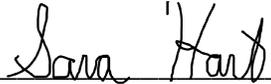
The facility provided considerable testimony regarding the Appellant's lack of identification and the barriers that have prevented her from accessing some of the additional verifications required to establish HUSKY C LTSS eligibility. The hearing record establishes that unusual circumstances beyond the Appellant's control exist and prevented her from providing all of the required verifications timely.

DECISION

The Appellant's appeal is GRANTED.

ORDER

1. The Department shall reopen the Appellant's [REDACTED], HUSKY C LTSS application.
2. The Department shall review the Appellant's submitted verifications, and, if necessary, issue an updated W1348 to the Appellant requesting missing information required to determine eligibility.
3. The Department must provide proof of compliance with the order no later than [REDACTED]


Sara Hart
Hearing Officer

Cc: Lisa Kellman, Department Representative, New Haven Regional Office
Rachel Anderson, Operations Manager, New Haven Regional Office
Mathew Kalarickal, Operations Manager, 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, law, and 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 if 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 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.