

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

██████████ 2023
Signature Confirmation

Case # ██████████
Client ID # ██████████
Request # 199054

NOTICE OF DECISION
PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2022, the Department of Social Services (the “Department”) sent ██████████ (the “Appellant”) a notice discontinuing her benefits under the Home and Community-Based Services (“HCBS”) program effective ██████████ 2022.

On ██████████ 2022, the Appellant requested an administrative hearing to contest the Department’s decision to discontinue her HCBS assistance.

On ██████████ 2022, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2022.

On ██████████ 2022, OLCRAH, at the Appellant’s request, issued a notice rescheduling the administrative hearing for ██████████ 2022.

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On ██████████ 2022, 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 telephonic conferencing.

The following individuals participated in the hearing:

██████████ the Appellant
██████████ Appellant's Representative and Interpreter
Jerry DeJesus, Department's Representative
Gregg Seiderer, Department's Representative
Christopher Turner, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether the Department's action to discontinue the Appellant's HCBS benefits due to failure to complete the recertification process was correct.

FINDINGS OF FACT

1. On ██████████ 2022, the Department sent the Appellant an Assessment Outcome Notification informing her that she no longer qualifies for participation in the Home Care for Elders Program due to her refusal of services. There is no indication in the case record that the Appellant or her representative contested this action. The Appellant is ██████ years old (DOB ██████████) and is considered aged for the Medicaid program. (Exhibit F: Application; Record)
2. On ██████████ 2022, the Department issued the Appellant a redetermination notice for her HCBS coverage. (Record)
3. On ██████████ 2022, the Department sent the Appellant a notice of action discontinuing her HCBS effective ██████████ 2022. (Exhibit A)
4. On ██████████ 2022, the Department discontinued the Appellant's HCBS for failure to complete the review process. There is no indication in the case record that the Appellant submitted her HCBS renewal before the ██████████ 2022, due date. (Exhibit E: Document search (Exhibit A: Notice)
5. On ██████████ 2022, the Department received the Appellant's online HCBS renewal. (Exhibit F: Application)
6. On ██████████ 2022, the Department processed the Appellant's online application and determined the Appellant eligible for Husky C spenddown medicals. (Exhibit C: Notice)
7. The Appellant's representative submitted an exhibit to be considered for the hearing. The exhibit notes some issues that are outside the scope of this hearing and some matters that took place in 2019 and are not relevant to the hearing at hand. (Appellant's Exhibit 1)

8. The issuance of this decision is timely under Connecticut General Statutes (“Conn. Gen. Stat.”) 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] 2022, with this decision due no later than [REDACTED] 2022, provided the time for rendering a final decision shall be extended whenever the aggrieved person requests or agrees to an extension. The Appellant requested and was granted three postponements that resulted in an extension of [REDACTED] days, this decision is due no later than [REDACTED] 2023, since [REDACTED] 2023, is a [REDACTED].

CONCLUSIONS OF LAW

1. Conn. Gen. Stat. § 17b-2 provides that 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-260 provides for the acceptance of federal grants for medical assistance. 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 1545.05 (A) (1) provides that eligibility is redetermined: a. regularly on a scheduled basis; and b. as required on an unscheduled basis because of known, questionable or anticipated changes in assistance unit circumstances.

UPM 1545.05 (A) (2) provides a redetermination constitutes: a. a complete review of AFDC, AABD or MA certification; b. a reapplication for the FS program.

UPM 1545.05 (A) (3) provides, in general, eligibility is redetermined through the same methods by which eligibility is initially determined at the time of application.

UPM 1545.05 (B) (1) provides that the purpose of the redetermination is to review and, for FS assistance units, to recertify all circumstances relating to: a. need; b. eligibility; c. benefit level.

The Department correctly determined the Appellant was subject to the recertification process.

4. UPM § 1545.15 (A) (1) provides that the Department is required to provide assistance units with timely notification of the scheduled redetermination.

UPM § 1545.15 (B) (1) (b) provides that the notice of the redetermination must be issued no earlier than the first day, or later than the last day of the month preceding the redetermination month.

The Department correctly notified the Appellant on [REDACTED] 2022, of the need to complete a redetermination before [REDACTED] 2022.

5. UPM § 1545.35 (A) (1) provides that assistance units are provided benefits without interruption by the first normal issuance date following the redetermination month if they timely complete the required actions of the redetermination process.

UPM § 1545.35 (A) (2) provides that the following actions must be timely completed to receive uninterrupted benefits: a. The redetermination form must be filed and completed.

UPM § 1545.35 (B) (2) provides that the assistance unit is considered to have timely filed if by the filing deadline the redetermination form is: a. delivered in person or by mail to the appropriate district office; c. signed by the applicant or other qualified individual.

UPM § 1545.40 (B) (2) provides that unless otherwise stated, assistance is discontinued on the last day of the redetermination month if eligibility is not reestablished through the redetermination process.

The Department correctly determined the Appellant did not send her recertification form before the [REDACTED] 2022 deadline.

6. UPM 1545.05 (B) (4) provides that assistance is discontinued if eligibility is not re-established.

UPM §1545.45 (A) provides the following provisions apply to AFDC, AABD or MA assistance units whose eligibility was discontinued at the end of the redetermination period because they failed to complete the redetermination process. 1. Untimely Filing
a. Redetermination forms filed in the month following the redetermination month are treated as initial applications if good cause is not established for the untimely filing.

The Department correctly discontinued the Appellant's assistance on [REDACTED] 2022.

7. UPM § 1570.05 (H) provides for time limits to request a Fair Hearing. 1. The request for a Fair Hearing must be made within a specified period of time from the date that the Department mails a notice of action. a. For all programs except Food Stamps, this period is 60 days.

UPM § 1570.05 (I) (1) provides the request for a fair hearing must be in writing for all programs except the Food Stamp program. In the Food Stamp program, the request for a Fair Hearing may be written or oral.

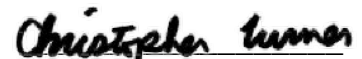
The Department correctly determined the point in question is a failure to recertify eligibility, not the issues detailed in the Appellant's representative's exhibit.

DISCUSSION

The Department correctly discontinued the Appellant's HCBS assistance for failure to submit information needed to establish eligibility since the Appellant did not submit her redetermination before the [REDACTED] 2022, deadline.

DECISION

The Appellant's appeal is denied.


Christopher Turner
Hearing Officer

Cc: Randalynn Muzzio, Operations Manager Waterbury
Jamel Hilliard, Operations Manager Waterbury
Jerry DeJesus, Department's Representative, DSS Hartford
Gregg Seiderer, Department's Representative, DSS Central 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 requested 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 the 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 the 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 to 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 under §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.