

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
25 SIGOURNEY STREET
HARTFORD, CT 06106-5033

██████████ 2014
Signature Confirmation

Client ID # ██████████
Request # 602610

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████ 2014, the Department of Social Services (the “Department”) sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) granting her application for Long Term Care Medicaid benefits (“L01”) effective ██████████ 2014.

On ██████████ 2014, the Appellant requested an administrative hearing to contest the Department’s determination of the effective date of her eligibility for the program.

On ██████████ 2014, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2014.

On ██████████ 2014, 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 following individuals were present at the hearing:

██████████, Appellant’s Son and Power of Attorney
Saya Miyakoshi, Department’s Representative
James Hinckley, Hearing Officer

The hearing officer held the hearing record open until ██████████, 2014 for the submission of additional evidence. On ██████████, 2014, the hearing record closed.

On [REDACTED], 2014 the hearing record was reopened for the submission of additional evidence. On [REDACTED] 2014, the hearing record closed.

STATEMENT OF THE ISSUE

1. The issue to be decided is whether the Department determined the correct effective eligibility date of [REDACTED] 2014 when it granted L01 Long Term Care Medicaid to the Appellant on [REDACTED] 2014.

FINDINGS OF FACT

1. On [REDACTED] 2014, the Department screened a reapplication for the Appellant for long term care (L01) Medicaid. (Hearing Summary)
2. As of [REDACTED] 2014, the Appellant is a resident at Manchester Manor, a long term care facility, where she has resided for several years. (Hearing Record, Appellant testimony)
3. As of [REDACTED] 2014, the Appellant is the owner of John Hancock Life Insurance Policy # [REDACTED], which she has owned for several years. The policy has a face value of \$5,000.00. (Hearing Record, Appellant testimony)
4. On [REDACTED], 2014, John Hancock policy # [REDACTED] was cashed in for its surrender value, and a check in the amount of \$8,291.46 was issued to the Appellant. (Ex. 2: [REDACTED] 2014 check from John Hancock Life payable to [REDACTED])
5. Subsequent to cashing in the policy, the Appellant's son transferred the proceeds to himself, as the Department instructed him he was allowed to do without incurring any eligibility penalty for the Appellant. (Appellant testimony, Hearing Record)
6. On [REDACTED] 2014, the Department made a determination that the Appellant properly reduced her assets as of [REDACTED], 2014. (Hearing Summary)
7. On [REDACTED] 2014, the Department mailed a NOA to the Appellant that she was eligible for L01 Medicaid and that her eligibility would begin [REDACTED] 2014. (Ex. 4: February 4, 2014 notice of action)

CONCLUSIONS OF LAW

1. Section 17b-260 of the Connecticut General Statutes provides for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.

2. Uniform Policy Manual (“UPM”) § 4030.30 discusses the treatment of life insurance policies as assets.

UPM § 4030.30(A) provides that for all programs: 1. The owner of a life insurance policy is the insured unless otherwise noted on the policy, or if the insurance company confirms that someone else, and not the insured, can cash in the policy; and 2. Policies such as term insurance policies having no cash surrender value are excluded assets.

UPM § 4030.30(C) provides that for the AABD and MAABD programs: 1. If the total face value of all life insurance policies owned by the individual does not exceed \$1500.00, the cash surrender value of such policies is excluded. In computing the face value of life insurance, the Department does not count insurance such as term insurance which has no cash surrender value; and 2. Except as provided above, the cash surrender value of life insurance policies owned by the individual is counted toward the asset limit.

The Department correctly determined that the Appellant’s John Hancock policy # [REDACTED] had a face value exceeding \$1500.00, and that the policy’s cash surrender value was therefore counted toward the asset limit.

3. UPM § 4005.10(A)(2)(a) provides that the asset limit for Medicaid for a needs group of one is \$1600.00.

The Department correctly determined that the \$8,291.46 cash surrender value of the Appellant’s John Hancock policy # [REDACTED] [REDACTED] exceeded the Medicaid asset limit of \$1600.00.

4. UPM § 1560.10 discusses Medicaid beginning dates of assistance and provides that the beginning date of assistance for Medicaid may be one of the following:
 - A. The first day of the first, second or third month immediately preceding the month in which the Department receives a signed application when all non-procedural eligibility requirements are met and covered medical services are received at any time during that particular month; or
 - B. The first day of the month of application when all non-procedural eligibility requirements are met during that month; or
 - C. The actual date in a spenddown period when all non-procedural eligibility requirements are met. For the determination of income eligibility in spend-down, refer to Income Eligibility Section 5520; or
 - D. The first of the calendar month following the month in which an individual is determined eligible when granted assistance as a Qualified Medicare Beneficiary (Cross Reference: 2540.94). The month of eligibility determination is considered to be the month that the Department receives all information and verification necessary to reach a decision regarding eligibility.

The Department correctly determined that the Appellant met the eligibility requirement of having assets under the limit as of the [REDACTED] 2014 date her John Hancock policy [REDACTED] was surrendered for its cash value.

The Department correctly determined that the Appellant did not meet the eligibility requirement of having assets under the limit in the first, second or third month immediately preceding the [REDACTED], 2014 application month because she was the owner of John Hancock policy # [REDACTED] which was a counted asset, and whose value exceeded the asset limit in each of those months.

The Department correctly determined that the Appellant's Medicaid eligibility begin date is [REDACTED] 2014, the first day of the month in which all non-procedural eligibility requirements were met.

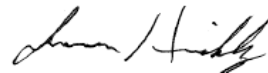
DISCUSSION

The issue before me is the Department's processing of the Appellant's [REDACTED] 2014 reapplication for L01 Medicaid, and whether the Department's eligibility date of [REDACTED] 2014 is correct. The Appellant's son requested this hearing because he seeks eligibility for his mother as of an earlier date. During the hearing, the Appellant's son argued that he acted as the Department instructed him, and emphasized that he reduced his mother's assets in a manner that was proper. The Department never argued that anything improper occurred in the process of reducing the Appellant's assets, and argued only that their calculated eligibility date was based upon *when* the assets were reduced.

Unfortunately, the Appellant's assets were not reduced to below the Department's limit until [REDACTED] 2014. That being the case, the Department is prohibited from finding the Appellant eligible for the program for any date prior to [REDACTED] 2014 because her assets exceeded the Medicaid limit in all prior months.

DECISION

The Appellant's appeal is DENIED.



James Hinckley
Hearing Officer

CC: John Hesterberg, SSOM Manchester

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, 25 Sigourney Street, Hartford, CT 06106.

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, 25 Sigourney Street, Hartford, CT 06106. 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.