

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

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

Client ID # ██████████
Request # 634488

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████ 2014, the Department of Social Services (the "Department") sent ██████████, Power of Attorney for ██████████, (the "Appellant") a Notice of Action ("NOA") discontinuing her Medicaid Long Term Care ("LTC") benefits.

On ██████████ 2014, the Appellant's Power of Attorney requested an administrative hearing to contest the Department's decision to discontinue such benefits.

On ██████████ 2014, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling an 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
Barbara Brunner, Department's Representative
Pamela J. Gonzalez, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether the Department correctly discontinued the Appellant's Medicaid LTC benefits effective [REDACTED] 2014.

FINDINGS OF FACT

1. The Appellant is a resident at Danbury Health Care Center where she has been a resident since [REDACTED], 2013. (Application received [REDACTED] [REDACTED] 2013 – Department's exhibit 8)
2. The Department granted LTC Medicaid to the Appellant effective [REDACTED] [REDACTED] 2013. (Department's representative's testimony)
3. The Appellant's application for Medicaid LTC benefits indicates that she does not own any assets except for a life insurance policy with New York Life AARP. (Department's exhibit 8)
4. The Appellant's application for Medicaid LTC indicates that the Appellant's New York Life AARP life insurance policy has a face value of \$7,000.00 and has no cash value. (Department's exhibit 8)
5. The cash surrender value of the Appellant's AARP life insurance policy as of [REDACTED] 2014 totaled \$1,905.15. (Statement from AARP Life Insurance Program – Department's exhibit 4)
6. The Appellant owns 128 shares of Pearson stock. As of [REDACTED] 2014, its value totaled \$18.83 per share or \$2,410.24. (Stock values website screen print – Department's exhibit 9)
7. On [REDACTED] 2014, the Department sent a W-1348 - Verification We Need Form asking that the Appellant verify current cash surrender value of AARP policy [REDACTED] and to provide proof that she cashed in the 128 shares of Pearson stock and paid the proceeds to Danbury Health Care Center. The requested information was due to be returned to the Department by [REDACTED] 2014. (Form W-1348 dated [REDACTED], 2014 – Department's exhibit 3)
8. The Appellant requested an extension of the deadline by which to provide the requested verifications. (Department's exhibit 3)
9. The Department allowed additional time to provide information needed to establish continued eligibility. (Hearing record)
10. The Appellant did not provide the requested items of verification to the Department. (Hearing record)

11. The Department considered the value of the stocks in determining the Appellant's asset eligibility for Medicaid LTC. (██████████ 2014 letter from BNY MELLON – Department's exhibit 2, Department's exhibit 9)
12. On ██████████ 2014, the Department discontinued the Appellant's LTC Medicaid effective ██████████ 2014 due to excess assets. (Notice of Action dated ██████████ 2014 – Department's exhibit 5)

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 pursuant to Title XIX of the Social Security Act.
2. Uniform Policy Manual ("UPM") § 4030 provides that the Department evaluates all types of assets available to the assistance unit when determining the unit's eligibility for benefits.
3. UPM § 4030.30(C)(1) provides that if the total of the face value of all life insurance policies owned by the individual does not exceed \$1,500.00, 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.
4. UPM § 4030.30(C)(2) provides that except as provided above, the cash surrender value of life insurance policies owned by the individual is counted toward the asset limit.
5. The Department correctly included the Appellant's life insurance cash surrender value in its determination of her asset eligibility.
6. UPM § 4030.75 provides, 1. The equity value of a share of stock is the net amount the owner would receive upon selling the share. 2. In computing this net amount due the owner, the Department subtracts the broker's fee, if any, from the market value of the share of stock.
7. The Department correctly included the value of the Appellant's stock shares in its determination of her asset eligibility.
8. UPM § 4005.10(A)(2)(a) provides that the asset limit for Medicaid under the Medical Aid for the Aged, Blind, and Disabled program ("MAABD") for a needs group of one is \$1,600.00.
9. UPM § 4005.05(B) speaks to asset limits and states in part:

1. The Department counts the assistance unit's equity in an asset toward the asset limit if the asset is not excluded by state or federal law and is either:
 - a. Available to the unit; or
 - b. Deemed available to the unit.
 2. Under all programs except Food Stamps, the Department considers an asset available when actually available to the individual, or when the individual has the legal right, authority, or power to obtain the asset, or to have it applied for, his or her general or medical support.
10. The AARP Life Insurance policy and 128 shares of Pearson stock were not excluded from consideration by state or federal law, and were available to the Appellant because she had the legal right, authority, or power to obtain them or to have them applied for her general or medical support.
11. As of [REDACTED] 2014, the Appellant's assets of \$4,315.39 exceeded the Medicaid asset limit of \$1,600.00.
12. UPM § 4005.15(A)(2) provides that in the Medicaid program at the time of application, the assistance unit is ineligible until the first day of the month in which it reduces its equity in counted assets to within the asset limit.
13. The Appellant did not properly reduce her assets to an allowable level.
14. The Department correctly discontinued the Appellant's LTC Medicaid effective [REDACTED] 2014.

DECISION

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

Pamela J. Gonzalez

Pamela J. Gonzalez
Hearing Officer

Copy: Carol Sue Shannon, Operations Manager, RO #31, Danbury

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, 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, 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, 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.

