

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3730

██████████ 2015
Signature Confirmation

Client ID # ██████████
Request #703332

NOTICE OF DECISION

PARTY

██████████
C/O ██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2015, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") denying her application for Long Term Care Medicaid benefits from ██████████ 2015 through ██████████ 2015 and granting her Long Term Care benefits effective ██████████ 2015.

On ██████████, 2015, the Appellant requested an administrative hearing to contest the effective date of the Long Term Care Medicaid benefits as determined by the Department.

On ██████████ 2015, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice scheduling the administrative hearing for July 28, 2015.

On ██████████ 2015, in accordance with sections 17b-60, 17b-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, Power of Attorney ("POA")
██████████, Business Office Manager, ██████████
Felicia Andrews, Department's Representative
Miklos Mencseli, Hearing Officer

The Appellant was not present.

STATEMENT OF THE ISSUE

The issue is the effective date of Long Term Care Medicaid benefits.

FINDINGS OF FACT

1. The Appellant is a resident of [REDACTED] Nursing facility. (Summary, Testimony)
2. On [REDACTED] 2015, the Department received the Appellant's application for Medicaid long term care assistance. (Summary, Testimony)
3. On [REDACTED], 2015, the Department sent the Appellant's Power of Attorney a W-1348LTC Verification We Need form requesting information needed to process the Appellant's application. The information was due by [REDACTED] 2015. (Exhibit 5: W-1348LTC dated [REDACTED] 15)
4. The Appellant's assets are Liberty Bank checking account # [REDACTED] and certified deposit ("CD") account # [REDACTED]. (Exhibit 2: CD statement from [REDACTED]-14 to [REDACTED]-15, Exhibit 3: Checking statement from [REDACTED]-15 to [REDACTED]-15)
5. The Appellant's POA is a joint account holder on both the checking and CD accounts at Liberty Bank. (Exhibit 2 & 3, Testimony)
6. As of the Appellant's application date the account balance for the checking account was \$153.59 and \$4,035.46 for the CD account. (Summary, Exhibit 2 & 3)
7. On [REDACTED] 2015, the Appellant's POA withdrew \$3,970.36 from the CD account and issue a bank check for the same amount to [REDACTED] Funeral Home. (Summary, Exhibit 4: Liberty Bank withdrawal form, Liberty Bank check for \$3,970.36)
8. Based on the withdrawal of funds from the Liberty Bank CD account and payment to the funeral home for said amount the Department determined the Appellant is asset eligible effective for [REDACTED] 2015. (Summary, Testimony)
9. The Appellant is looking for a [REDACTED] 2014 pick-up date. (Testimony)
10. The Appellant's POA administered the Appellant's accounts since they were opened. (Testimony)
11. The accounts were funded by the Appellant and her deceased spouse. (Testimony)

12. The Appellant's POA initially submitted an application for the Appellant on [REDACTED], 2014. (Testimony)
13. On [REDACTED], 2014, the Department sent the Appellant a Notice of Denial. The denial reason was due to failure to provide information necessary to establish eligibility. (Exhibit 7A: NOA dated [REDACTED]-14)
14. The notice was sent to the Appellant's address of [REDACTED] [REDACTED] (Exhibit 7A)
15. As of [REDACTED] the Department has the Appellant's POA listed As the authorized representative with an address of [REDACTED] [REDACTED]. (Exhibit 7B: Department's AREP computer screen printout)
16. The OLCRAH did not receive a hearing request for the denial notice.

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes, authorizes the Department of Social Services to administer the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Uniform Policy Manual (UPM) § 4005.05 (B)(1) provides that 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: available to the unit; or deemed available to the unit.
3. UPM § 4005.05 (B)(2) provides that 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.
4. UPM § 4005.05 (D) provides that an assistance unit is not eligible for benefits under a particular program if the units equity in counted assets exceeds the asset limit for the particular program.
5. The Department correctly determined that the Liberty Bank CD account was an available asset and that the applicant had the legal right, authority or power to obtain the asset.
6. UPM § 4010.10 provides for assets held jointly.

A. General Principles

1. Subject to the limitations described below, personal property such as a bank account held jointly by the assistance unit and by another person is counted in full

toward the asset limit.

3. An individual other than the spouse of an assistance unit member is considered merely the record owner of an account or similar asset held jointly with the unit member.
 - a. This is true regardless of the time period the individual has been joint holder of the asset.

7. UPM 4030.05 provides for treatment of assets and specific types of assets.

A. Types of Bank Accounts

Bank accounts include the following. This list is not all inclusive.

1. Savings account;
2. Checking account;
3. Credit union account;
4. Certificate of deposit;
6. Patient account at long-term care facility;
7. Children's school account;
8. Trustee account;
9. Custodial account.

8. The Department correctly determined that the \$4,035.46 in the Liberty Bank CD account is an available asset and counted toward the asset limit.
9. UPM § 4005.10(A)(2)(a) provides that the asset limit for Medicaid for a needs group of one is \$1600.00.
10. The Department correctly determined that the Appellant became asset eligible based on the withdrawal form from Liberty Bank and the bank check paid to [REDACTED] Funeral Home.
11. UPM § 4005.15 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.
12. UPM § 1560.10 (A) provides for begin dates of Medicaid Assistance. The beginning date of assistance for Medicaid may be one of the following: 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.
13. The Department correctly determined that the Appellant's Medicaid eligibility begin date is [REDACTED] 2015, the first day of the month in which assets were reduced below the asset limit for the program.

14. UPM § 1570.05 (H) provides for Time Limits for Requesting 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.
 - b. For the Food Stamp program, this period is 90 days.
15. Conn. Gen. Stat. § 17b-60 provides for Fair Hearings. An aggrieved person authorized by law to request a fair hearing on a decision of the Commissioner of Social Services or the conservator of any such person on his behalf may make application for such hearing in writing over his signature to the commissioner and shall state in such application in simple language the reasons why he claims to be aggrieved. Such application shall be mailed to the commissioner within sixty days after the rendition of such decision.
16. On [REDACTED] 2014, the Department sent the Appellant a Notice of Denial for an application dated [REDACTED] 2014. The denial reason was due to failure to provide information necessary to establish eligibility.
17. The Appellant did not request a Fair Hearing regarding this denial within the time limit.

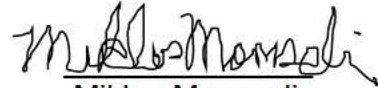
DISCUSSION

The Department cannot grant eligibility until the first day of the month in which the applicant reduces its equity in counted assets to within the asset limit. The Department correctly determined the Appellant is eligible effective for [REDACTED] 2015.

In regards to the application dated [REDACTED]-14. A notice was issued by the Department on [REDACTED] 14. The Department provided a copy of notice to the undersigned. It was sent to the Appellant and the Department has the Appellant's POA listed as an authorized representative with his correct address. Since a hearing request was not received regarding the denial within sixty (60) days the undersigned cannot make a decision on the Department's action.

DECISION

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


Miklos Mencseli
Hearing Officer

C: E. Tyler Nardine, Operations Manager, DSS R.O. #50 Middletown

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 Administrative Hearings and Appeals, 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 the Commissioner's 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.