

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

██████████, 2017  
Signature Confirmation

Client ID # ██████████  
Request # 790209

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████, 2016, the Department of Social Services (the "Department") sent ██████████ ██████████ (the "Applicant"), and her conservator ██████████ ("the Appellant") a Notice of Action ("NOA") granting Medicaid benefits effective ██████████, 2016, and a Notice of Action denying Medicaid benefits for the months of ██████████ and ██████████ 2016.

On ██████████ 2016, the Appellant requested an administrative hearing to contest the effective date of Medicaid benefits as determined by the Department.

On ██████████ 2016, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice scheduling the administrative hearing for ██████████ ██████████, 2016.

On ██████████, 2016 the Appellant requested a reschedule.

On ██████████ 2016, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice rescheduling the administrative hearing for ██████████ 2016.

On ██████████ 2016 the Appellant requested a second reschedule.

On [REDACTED], 2016 OLCRAH issued a Notice rescheduling the administrative hearing for [REDACTED], 2016.

On [REDACTED] 2016, 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 participated in the hearing:

[REDACTED] Appellant, Applicant's Conservator  
Vanessa Smith, Department's Representative  
Marci Ostroski, Hearing Officer

The Applicant, [REDACTED] [REDACTED], was not present at the hearing due to her institutionalization at a long term care facility.

The Hearing record remained open for the submission of additional information. Exhibits were received from the Department and the Appellant and the record closed [REDACTED] [REDACTED] 2016.

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether the Department's decision to grant Medicaid benefits effective [REDACTED] 2016, was correct.

### **FINDINGS OF FACT**

1. On [REDACTED] 2015 the Applicant was admitted to Maefair Health Center. (Ex. 1: Long Term Care Application, Hearing Summary)
2. On [REDACTED] 2016, the Department received from the Applicant's Representative, an application for Long Term Care Assistance ("LTSS") Medicaid. (Ex. 1: Long Term Care Application, Hearing Summary)
3. On [REDACTED] 2016, the Department sent a W-1348 LTC Verification We Need form to the Applicant's Conservator requesting Bank of America and CSE Credit Union account statements, and for all accounts with transactions of \$5,000.00 or more copies of bills, receipts or cancelled checks. The notice stated "there is no eligibility for Title 19 Long Term Care benefits in any month in which counted assets exceed \$1,600.00." The information was due by [REDACTED] 2016 and no later than [REDACTED] 2016. (Exhibit 2: W-1348LTC dated [REDACTED], 2016.)
4. The Applicant is the owner of a checking account (# [REDACTED]) with Bank of America, a second checking account (# [REDACTED]) with Bank of America, and a savings account through [REDACTED] Employees ("CSE") Credit Union (# [REDACTED]) (Ex. 1: Long Term Care Application, Ex. 7: Bank of America statement for [REDACTED] Ex. 8: CSE Credit Union statement, Ex. 9: Bank of America statement for [REDACTED])

5. Throughout the application process the Department sent the Applicant's Representative four (4) additional W-1348 LTC forms requesting information on the three bank accounts. The 1348 LTC forms stated that the Applicant must be under the \$1600 asset limit. (Ex. 3: W-1348 LTC dated [REDACTED], 2016, Ex. 4: W-1348 LTC dated [REDACTED], 2016, Ex. 5: W-1348 LTC dated [REDACTED], 2016, Ex. 6: W-1348 LTC dated [REDACTED], 2016, Hearing Summary).
6. For the period of [REDACTED] 2016 through [REDACTED], 2016, the Applicant had the following assets and balances: Bank of America account # [REDACTED] \$4138.30, Bank of America account # [REDACTED] \$1062.42, CSE Credit Union # [REDACTED] \$2031.47. (Ex. 7: Bank of America statement, Ex. 8: CSE Credit Union statement, Ex. 9: Bank of America statement)
7. For the month of [REDACTED] 2016, the Applicant's total countable assets and balances equaled \$7232.19 (\$4138.30 + \$1062.42 + \$2031.47). (Ex. 7: Bank of America statement, Ex. 8: CSE Credit Union statement, Ex. 9: Bank of America statement, Ex. 15: MAFI screen)
8. For the period of [REDACTED] 2016 through [REDACTED], 2016, the Applicant had the following assets and balances: Bank of America account # [REDACTED] \$5169.46, Bank of America account # [REDACTED] \$17.26, CSE Credit Union account # [REDACTED] \$2430.47. (Ex. 7: Bank of America statement, Ex. 8: CSE Credit Union statement, Ex. 9: Bank of America statement)
9. For the month of [REDACTED] 2016, the Applicant's total countable assets and balances equaled \$7617.19 (\$5169.46 + \$17.46 + \$2430.47). (Ex. 7: Bank of America statement, Ex. 8: CSE Credit Union statement, Ex. 9: Bank of America statement, Ex. 15: MAFI screen)
10. On [REDACTED], 2016 the [REDACTED] Probate Court granted the Appellant approval for payment of conservator fees in the amount of \$2509.00. (Ex. D: Probate Court Decree dated [REDACTED]/16)
11. On [REDACTED] 2016 the [REDACTED] Probate Court granted the Appellant approval for payment of conservator fees in the amount of \$2538.50. (Ex. C: Probate Court Decree dated [REDACTED]/16)
12. On [REDACTED] 2016 the [REDACTED] Probate Court granted the Appellant approval for payment of conservator fees in the amount of \$532.00. (Ex. E: Probate Court Decree dated [REDACTED]/16)
13. On [REDACTED], 2016 the [REDACTED] Probate Court granted the Appellant approval for payment of conservator fees in the amount of \$1091.50. (Ex. B: Probate Court Decree dated [REDACTED]/16)
14. On [REDACTED] 2016 the Department determined the Appellant spent down the Applicant's funds and had the following assets and balances: Bank of America account # [REDACTED] \$116.73, Bank of America account # [REDACTED] \$17.26, CSE Credit Union

account # [REDACTED] \$25.00. For the month of August the Applicant's total countable assets equaled \$158.99. (Ex. 25: AST1 screen)

15. On [REDACTED] [REDACTED], 2016, the Department granted Medicaid for long term care assistance effective [REDACTED], 2016, the first month the Applicant was under the \$1,600.00 asset limit. The Department denied the months of [REDACTED] and [REDACTED] 2016 for exceeding the asset limit of \$1600.00. (Hearing Summary, Ex. 17: Notice of Action dated [REDACTED]/16)
16. At the administrative hearing the Appellant requested three months of retroactive coverage from the date of application which would include the months of [REDACTED], [REDACTED], and [REDACTED] 2016. (Appellant's testimony)
17. In the month of [REDACTED] 2016 the Applicant's Bank of America account # [REDACTED] had a balance of \$17454.25. (Ex. 7: Bank of America statement)
18. In the month of [REDACTED] 2016 the Applicant's Bank of America account # [REDACTED] had a balance of \$19634.18. (Ex. 7: Bank of America statement)
19. In the month of [REDACTED] 2016 the Applicant's Bank of America account # [REDACTED] had a balance of \$16650.15. (Ex. 7: Bank of America statement)

### 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") Section 4030 provides that the Department evaluates all types of assets available to the assistance unit when determining the unit's eligibility for benefits.
3. Section 17b-261(c) of the Connecticut General Statutes provides in part that for the purposes of determining eligibility for the Medicaid program, an available asset is one that is actually available to the applicant or one that the applicant has the legal right, authority or power to obtain or to have applied for the applicant's general or medical support.
4. UPM § 4005.05 (A) 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.
5. 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.

6. UPM § 4005.05 (D) provides that an assistance unit is not eligible for benefits under a particular program if the unit's equity in counted assets exceeds the asset limit for the particular program.
7. UPM § 4005.10 provides that the Medicaid asset limit for a needs group of one is \$1,600.00 per month.
8. The Department correctly determined that the Applicant's assets of \$7232.79 in the month of [REDACTED] 2016 exceeded the \$1600.00 asset limit.
9. The Department correctly determined that the Applicant was ineligible for benefits in the month of [REDACTED] 2016.
10. The Department correctly determined that the Applicant's assets of \$7617.19 in the month of [REDACTED] 2016 exceeded the \$1600.00 asset limit.
11. The Department correctly determined that the Applicant was ineligible for benefits in the month of [REDACTED] 2016.
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. UPM § 4015.05 (B) provides that the burden is on the assistance to demonstrate that an asset is inaccessible. For all programs except Food Stamps, in order for an asset to be considered inaccessible, the assistance unit must cooperate with the Department as directed, in attempting to gain access to the asset.
14. The Department correctly determined that the Applicants assets were accessible.
15. 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.
16. The Department received a signed application in [REDACTED] 2016. The three months immediately preceding [REDACTED] 2016 are [REDACTED], [REDACTED], and [REDACTED] 2016.
17. The Department correctly determined that the Applicant's assets exceeded the Medicaid asset limit of \$1,600.00 and that she was ineligible for the months of [REDACTED], [REDACTED], and [REDACTED] 2016.
18. The Applicant's assets were reduced to within the Medicaid asset limit in [REDACTED] 2016.

19. The Department correctly determined that the Applicant is asset eligible for long term care Medicaid effective [REDACTED] 2016.

### **DISCUSSION**

After reviewing the evidence and testimony presented, I find the Department correctly determined the effective date of the Applicant's Medicaid assistance.

Regulations provide that eligibility for the Medicaid program begins the first day of the month in which the assistance unit reduces its equity in counted assets to within the asset limit. The record reflects that the Applicant's assets were within the Medicaid limits effective [REDACTED] 2016, the month in which the funds in the checking and savings accounts were properly reduced. Prior to [REDACTED] 2016, the funds were accessible to the Applicant and exceeded the Medicaid asset limit.

The Appellant's argument that she planned on reducing the Applicant's funds and that the assets were allocated to pay bills does not change the fact that the action was not taken timely and the funds remained accessible and available. The Appellant testified that she did not have any limitations on her access to the accounts but was simply waiting to reduce the funds until the Probate Court approved the payment of her invoices for conservator fees.

Based on policy and regulations, the Department properly granted benefits beginning in the month of [REDACTED] 2016 when she became asset eligible. The Department properly denied the Applicant assistance for the months of [REDACTED] and [REDACTED] 2016 as well as the retroactive months of [REDACTED], [REDACTED] and [REDACTED] 2016 the Appellant requested coverage for at the administrative hearing.

### **DECISION**

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

  
Marci Ostroski  
Hearing Officer

cc: Poonam Sharma, Fred Presnick, Operations Managers, Bridgeport Regional Office  
Yecenia Acosta, Program Manager, Bridgeport Regional Office  
Vanessa Smith, Eligibility Services Worker, Bridgeport 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 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 06105-3725.

### **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 06105-3725. 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.