

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

██████████ 2016
Signature Confirmation

Client ID#: ██████████
Hearing ID#: 804123

NOTICE OF DECISION

PARTY

██████████
██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2016, the Department of Social Services (the "Department") granted ██████████, ("the Appellant") ██████████, 2016, application for Medicaid Long Term Care benefits effective ██████████ 2016.

On ██████████ 2016, ██████████, the Appellant's Representative and Executrix requested an administrative hearing to contest the Department's decision to deny certain months of benefits and requested that the Department grant benefits back to ██████████ 2016.

On ██████████ 2017, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████, 2017.

On ██████████ 2017, the Appellant's representative requested the administrative hearing be rescheduled.

On ██████████, 2017, OLCRAH issued a notice rescheduling the administrative hearing for ██████████ 2017.

On ██████████ 2017, the Appellant's representative requested the administrative hearing be rescheduled.

On [REDACTED] 2017, OLCRAH issued a notice rescheduling the administrative hearing for [REDACTED] 2017.

On [REDACTED] 2017, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-184 of the Connecticut General Statutes, inclusive, OLCRAH held an administrative hearing. The following individuals were present at the hearing:

[REDACTED], Appellant's Representative and Executrix of Estate
[REDACTED], Appellant's Executrix of Estate
[REDACTED], Attorney for Appellant's representative
Ryan Barganier, Department's Representative
Scott Zuckerman, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly granted the Appellant's Long Term Care Medicaid benefits effective [REDACTED] 2016.

FINDINGS OF FACT

1. On [REDACTED] 2008, the Appellant entered into a Reverse Annuity Mortgage on his property at [REDACTED] (Exhibit B: Complaint, Champion Mortgage Company v. [REDACTED] dated [REDACTED], 2016)
2. Effective [REDACTED], 2016, the Appellant was a resident of The Pines at Bristol ("the facility") in [REDACTED], CT. (Hearing Record)
3. On [REDACTED], 2016, the Appellant executed a quit claim deed for his property on [REDACTED], to his niece, [REDACTED] for \$1.00. (Appellant's Exhibit D: Quit Claim Deed, [REDACTED]/16)
4. The Department did not impose a transfer of asset penalty on the home property at [REDACTED] (Hearing Record)
5. The Appellant was the owner of the following accounts: Santander Bank checking account [REDACTED] and Santander Bank premier money market [REDACTED] (Hearing Record)
6. The Appellant's niece jointly owned the accounts at Santander Bank. (Appellant's representative's testimony, Exhibit C: Bank Statements)
7. On [REDACTED], 2016, the Appellant's niece deposited a \$5000.00 check payable to the Appellant from his Champion Mortgage reverse mortgage into his Santander checking account # [REDACTED]. The account had an end of month balance of \$5041.63. (Exhibit 2: Santander bank statement acct # [REDACTED] [REDACTED]/16 – [REDACTED]/16, Appellant's exhibit C: Check from Reverse Mortgage Services dated [REDACTED]/16)

8. The asset limit for Long Term Care Medicaid Assistance is \$1600.00 (Department's Testimony)
9. On █████ 2016, the Appellant's Santander checking account # █████ had a balance of \$5961.00. (Appellant's exhibit C: Santander Bank statement █████/16 – █████/16)
10. On █████ 2016, the Appellant's Santander Account # █████ has a balance of \$78.33, following the payment of the Appellant's real estate taxes of \$2,198.00 by his niece. (Exhibit 2: Santander Bank Statement █████/16 – █████/6 and Exhibit C: Check to █████ Tax Collector, █████/16)
11. On █████ 2016, the Appellant passed away. (Hearing Record)
12. The Appellant's assets for the months of █████ 2016 through █████ 2016 were as follows:

Month	Santander Acct # █████	Santander Acct # █████
█████ 2016	\$55.87	\$5041.63
█████ 2016	\$23.40	\$0.01

(Ex. C and Ex. 3: Santander Statements)

13. On █████ 2016, the Appellant reduced his assets to below \$1600.00. (Hearing Record)
14. On █████ 2016, the Appellant's niece and executrix applied for Long Term Care Medicaid assistance. (Hearing Summary)
15. The Appellant's representative is requesting a █████ 2016 start date for Long Term Care Medicaid. (Appellant's representative testimony)
16. On █████ 2016, the Department granted the Appellant's █████ 2016, application for Medicaid Assistance effective █████ 2016. (Hearing Summary, Ex. 5: Approval of Retroactive Medical Assistance, █████/16)

CONCLUSIONS OF LAW

1. Connecticut General Statutes §17b-2 provides in part that the Commissioner is authorized to administer the Medicaid program pursuant to Title XIX of the Social Security Act.

2. Uniform Policy Manual § 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. The Department correctly determined that the Appellant's Santander bank accounts were available to the Appellant.
5. UPM § 4010.10 (A)(1) provides that 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.
6. UPM § 4010.10(A)(3) provides that an individual other than a spouse of an assistance unit 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.
 - b. The assistance unit may rebut the Department's findings by providing clear and convincing evidence that the individual is legal owner of the asset.
7. The Department correctly counted the balance in the Appellant's Santander Bank accounts for the month of ██████ 2016.
8. The Appellant's representative did not provide clear and convincing evidence that the asset belonged to her and not the Appellant.
9. 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.

10. UPM § 4026.05 pertains to the calculation method for counted assets and states:

The amount of assets counted in determining the assistance unit's eligibility is calculated in the following manner:

- A. The Department determines the amount of the assistance unit's available non-excluded assets by subtracting the value of the following assets owned by the assistance unit:
 1. those assets considered to be inaccessible to the assistance unit at the time of determining eligibility; and
 2. assets which are excluded from consideration.
 - B. The Department adjusts the amount of the assistance unit's available non-excluded assets by:
 1. subtracting a Community Spouse Disregard (CSD), when appropriate, for those individuals applying for assistance under the MAABD program (Cross Reference: 4022.05); and
 2. adding any amount of assets deemed to be available to the assistance unit (Cross Reference: 4025); and
 3. subtracting a Long-Term Care Insurance Disregard (LTCID), when appropriate, for those individuals applying for or receiving assistance under the MAABD program (Cross Reference: 4022.10).
 - C. The amount remaining after the above adjustments is counted.
7. The Department correctly counted the Appellant's assets for the months of [REDACTED] 2016 through [REDACTED] 2016.
8. UPM Section 4005.10 (A) provides that in the Medicaid program, the asset limit for one person is \$1,600.00.
9. On [REDACTED], 2016, the Department correctly granted the Appellant's [REDACTED] 2016, application for Long Term Care Medicaid effective [REDACTED] 2016, as the assets were reduced to under the allowable limit.

DECISION

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



Scott Zuckerman
Hearing Officer

Cc: Phil Ober, Operations Manager, DSS, New Britain Regional Office
Patricia Ostroski, Program Manager, DSS, New Britain Regional Office
Ryan Barganier Fair Hearing Liaison, DSS

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. 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.