

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

██████████ 2013
SIGNATURE CONFIRMATION

Client ID #: ██████████
Hearing ID #: 531744

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

Applicant: ██████████

PROCEDURAL BACKGROUND

On ██████████ 2013, the Department of Social Services (the "Department") sent ██████████
██████████ ("Appellant") a Notice indicating that his father's ██████████ ("applicant")
application for Long Term Care (LTC) Medicaid benefits are granted effective ██████████
2013.

On ██████████, 2013, the Appellant requested an administrative hearing to contest the
Department's decision to grant eligibility effective ██████████ 2013 and deny the preceding
months.

On ██████████ 2013, the Office of Legal Counsel, Regulations, and Administrative
Hearings ("OLCRAH") issued a Notice originally scheduling the administrative hearing
for ██████████ 2013.

On ██████████ 2013, 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
Joseph Jack, Department's Representative
Karen Brown, Hearing Officer

STATEMENT OF THE ISSUE

The issues are whether the Department was correct in its determination of the applicant's Long Term Care Medicaid benefits effective date.

FINDINGS OF FACT

1. The applicant owned 2 accounts with Bank of America with a total balance of \$5,312.30 as of the date of application. (Exhibit 3: Bank of America statement [REDACTED]-11)
2. The applicant owned an ING Reliastar life insurance policy that had a face value of \$51,425.00 with a cash surrender value. (Exhibit 5: W-1 application, p. 5)
3. The applicant resided at the McLean Nursing Facility. (Hearing Summary)
4. On [REDACTED] 2011, the Department received the applicant's request for Long Term Care Medicaid benefits. (Exhibit 1: Department's narrative screen)
5. On [REDACTED] 2011, the Department sent the Appellant a W-1348LTC, "We Need Verification from You" requesting the following: spouse's death certificate, patient fund account balance, bank statements, verification of cash transactions from [REDACTED] 2007 through [REDACTED] 2011, updated statements from M&I Bank FSB, ING policy information, medical cards, form W-1SA to complete, and transaction verifications from Fidelity Investments. The requested information was due by [REDACTED] 2011. (Exhibit 2: W-1348 LTC 11-14-11)
6. On [REDACTED] 2011, the Department notified the Appellant that the applicant's assets exceeded the LTC Medicaid limit of \$1,600.00 and that the assets needed to reduce to below the asset limit. (Exhibit 2)
7. The Department received the requested information. (Department's Testimony)
8. On [REDACTED] 2013, the Appellant surrendered the applicant's cash value from his ING Reliastar Life Insurance policy in the amount of \$5,850.14 (Exhibit 6: Appellant's letter [REDACTED]-13; Exhibit 7: copy of check from ING)
9. As of [REDACTED] 2013, the applicant's assets reduced to below \$1,600, the LTC Medicaid asset limit for one person. (Fact #8)
10. On [REDACTED] 2013, the Department granted the applicant's Long Term Care Medicaid benefits effective [REDACTED] 2013. (Exhibit 1)
11. McLean is requesting that the Department grant eligibility to [REDACTED] 2011. (Exhibit 1)

12. On [REDACTED] 2013, the applicant passed. (Appellant's testimony)

CONCLUSIONS OF LAW

1. Section 17b-2, section (9) of the Connecticut General Statutes designates the Department of Social Services as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Section 17b-2 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the Medicaid program.
3. Section 17b-80(a) of the Connecticut General Statutes states that the Department shall grant aid only if the applicant is eligible for that aid.
4. Uniform Policy Manual ("UPM") Section 4005.05.B provides that:
 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.
5. UPM Section 1010.05.A.1 provides that the assistance unit must supply the Department, in an accurate and timely manner as defined by the Department, all pertinent information and verification which the Department requires to determine eligibility and calculate the amount of benefits (cross reference: 1555).
6. The Department received the verification that the applicant's assets reduced to below the asset limit on [REDACTED] 2013.
7. UPM Section 4005.10.A.2.a provides that the Medicaid asset limit for one person is \$1,600.
8. The Department correctly determined that the applicant's assets exceeded the \$1,600.00 Medicaid asset limit from [REDACTED] 2011 through [REDACTED] 2013.
9. The Department correctly denied the applicant's eligibility for LTC Medicaid for the months of [REDACTED] 2011 through [REDACTED] 2013.
10. UPM Section 4005.15.A.2 provides that for Medicaid and AABD residents of Long Term Care Facilities, 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.

11. The applicant's assets were within the Medicaid asset limit as of [REDACTED] 2013.
12. The Department correctly granted the applicant's Medicaid effective [REDACTED] 2013, the month that the applicant's assets reduced to below the asset limit.

DISCUSSION

At the hearing, the Appellant testified that he had to track the applicant's asset information in order to reduce them and cashed in the life insurance policy in [REDACTED] 2013. The Department granted a diversion of the applicant's applied income from [REDACTED] 2012 through [REDACTED] 2013.

DECISION

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

Karen Brown
Hearing Officer

Cc: Lisa Wells, Operations Manager, Hartford RO #10

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.