

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

██████████ 2014
SIGNATURE CONFIRMATION

Client ID#: ██████████
Hearing ID#: 543072

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

Client: ██████████

PROCEDURAL BACKGROUND

On ██████████ 2013, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a notice stating that the agency denied his father ██████████ ("client") application for Long Term Care Medicaid because his assets exceeded the Medicaid asset limit.

On ██████████ 2013, the Appellant requested an administrative hearing to contest the Department's denial of his father's Medicaid application.

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

On ██████████ 2013, 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 hearing record closed on ██████████ 2013 for receipt of additional evidence for the record.

The following individuals were present at the hearing:

██████████, Appellant and Power of Attorney
██████████, Appellant's partner

██████████, financial coordinator for Manchester Manor, for the Appellant
Christine Moffitt, Department's representative
Karen Brown, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly denied the client's Medicaid application due to excess assets.

FINDINGS OF FACT

1. As of ██████████, 2011, the client owned a life annuity with Ameriprise Financial with a settlement value of \$35,069.07 with payment of \$197.79 per month for 20 years. (Exhibit 9: Letter from Ameriprise)
2. On ██████████ 2012, Vernon Manor admitted the client. (Exhibit 4: W-765, request for advice concerning a trust)
3. On ██████████ 2012, the client applied with the Department for Long Term Care Medicaid. (Department's testimony).
4. On ██████████ 2012, the Department sent the Appellant a W-1348, "verification we need" form requesting copies of all bank statements, verifications of deposits, withdrawals, and checks over \$1,000.00, copies of all life insurance policies, copy of the property deed, verification of all other assets, American Eagle and Wachovia Bank statements, and verification of a \$1,500 deposit on ██████████ 2011 into American Eagle Credit Union. The requested information was due by ██████████ 2012. (Exhibit 1: W-1348 LTC form)
5. On ██████████ 2013, the Department sent the Appellant a second W-1348, "verification we need" form requesting verification of gross income, bank account statements from Wachovia Bank, American Eagle FCU, verifications of transactions \$5,000 or greater since ██████████ 2007, verification of Ameriprise Investments account, and Riversource Life annuities. The requested information was due by ██████████ 2013. (Exhibit 2:W-1348LTC form)
6. On ██████████ and ██████████ 2013, some of the requested information was received. (Department's Testimony)
7. On ██████████ 2013, the Department asked Attorney Dan Butler for advice on the client's annuities from Ameriprise (accounts ending in ██████████, ██████████, and ██████████) regarding consideration of the annuities as available assets. (Hearing Summary)
8. On ██████████, 2013, Attorney Butler determined that the Ameriprise annuities ending in ██████████ and ██████████ be counted as income because their payment streams

are not available but that the annuity ending in [REDACTED] is an available asset and if the asset and the purchase of the annuity is considered a transfer for less than fair market value. (Exhibit 5: Email from Attorney Butler [REDACTED]-13)

9. Attorney Butler also advised that if the annuity ending in [REDACTED], plus any of the client's other assets exceed the Medicaid asset limit, it should be sold. (Exhibit 5)
10. On [REDACTED] 2013, the Department sent the Appellant another W-1348, "verification we need" form informing him of the availability of the annuity as an asset and requested three estimates for purchase of annuity and the value. The requested information was due by [REDACTED] 2013. (Exhibit 4: W-1348LTC)
11. The Department received the requested information. (Record)
12. On [REDACTED] 2013, the Department received information that JG Wentworth will purchase the client's annuity for \$18,000 and that the state of Connecticut was named as first beneficiary. (Exhibit 12: Department's narrative notes)
13. On [REDACTED] 2013, Attorney Butler advised that the client should accept the \$18,000 offer from JG Wentworth. (Exhibit 12)
14. On [REDACTED], 2013, Ameriprise annuity ending in [REDACTED] was surrendered with a net payment of \$17,406.63 and made out to Vernon Manor. (Hearing Summary)
15. The client's assets were reduced in [REDACTED] 2013. (Fact #14)
16. On [REDACTED] 2013, the Department denied the client's application for Long Term Care Medicaid for the months of [REDACTED] 2012 through [REDACTED] 2013 because the client's assets exceeded the Medicaid asset limit. (Exhibit 13: Notice of Action [REDACTED]-13)
17. On [REDACTED] 2013, the Department granted the client's application for Long Term Care Medicaid effective [REDACTED] 2013. (Exhibit 13)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes (Conn. Gen. Stat.) 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 (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. UPM Section 4030.47 provides that annuities are evaluated as both an asset representing an investment and as income that the beneficiary may receive on a regular basis (cross reference 5050, Treatment of Specific Types). The

assistance unit's equity in an annuity is a counted asset to the extent that the assistance unit can sell or otherwise obtain the entire amount of equity in the investment. Any payments received from an annuity are considered income. Additionally, the right to receive income from an annuity is regarded as an available asset, whether or not the annuity is assignable.

4. The Department correctly determined that the client's annuity was an available asset.
5. Uniform Policy Manual (UPM) Section 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:
 - a. available to the unit; or
 - b. deemed available to the unit.
6. UPM Section 4005.10.A provides that in the Medicaid program, the asset limit for one person is \$1,600.00.
7. The Department correctly determined that the client's annuity asset exceeded the Medicaid \$1,600.00 asset limit.
8. UPM Section 4005.15.A.2 provides that 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.
9. The client met the Medicaid asset limit in [REDACTED] 2013 when the annuity was sold.
10. The Department correctly denied the client's application for Long Term Care Medicaid for the months of [REDACTED] 2012 through [REDACTED] 2013 due to his assets exceeding the Medicaid asset limit.
11. The Department correctly granted the client's application for Long Term Care Medicaid effective [REDACTED] 2013.


DISCUSSION

The Appellant testified that there was a delay in processing and that the request to determine the availability of the annuity was made in [REDACTED] 2013, months after the application filing. The undisputed fact is that the client's assets exceeded the allowable limit until all assets were reduced in [REDACTED] 2013. The Appellant contends that he could have reduced the assets sooner if the Department responded sooner. There are no provisions or exceptions in policy that permit the Department to grant benefits in a month when there is no eligibility due to excess assets. The Appellant refers to delays on the part of the Department. However, it is noted that the Department did not receive all of the information needed to determine the amount of the assets until [REDACTED]

2013 and the Appellant did not make contact with the Department until [REDACTED] 2013. The client's assets exceeded the asset limit until [REDACTED] 2013.

DECISION

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



Karen Brown
Hearing Officer

John Hesterberg, Operations Manager, Manchester RO #11

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.