

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
25 SIGOURNEY STREET
HARTFORD, CT 06106-5033

██████████ 2014
Signature Confirmation

Client ID # ██████████
Request #560556

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████ 2013, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") granting Long Term Care Medicaid benefits effective ██████████ 2013.

On ██████████ 2013, the Appellant's representative, ██████████ requested an administrative hearing to contest the effective date of the Long Term Care Medicaid benefits as determined by the Department.

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 4-189, 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")
██████████, Appellant's Daughter, Power of Attorney ("POA")
Mark Yeomans, Department's Representative
Miklos Mencseli, Hearing Officer

The Appellant was not present.

STATEMENT OF THE ISSUE

The issue to be decided is whether or not the Department was correct in its determination of the effective date of the Applicant's Long Term Care Medicaid benefits.

FINDINGS OF FACT

1. Since [REDACTED] 2013, the Appellant became institutionalized (the date of institutionalization ["DOI"]). (Exhibit 4: spousal assessment worksheet)
2. The Appellant was admitted to the Reservoir facility. The Appellant has remained at the facility. (Exhibit 2: W-1SA application for determination of spousal assets [REDACTED]-13, Testimony)
3. On [REDACTED] 2013, the Appellant applied for the W01 Medicaid, Connecticut Home Care Program for Elders ("CHCP"). (Summary)
4. On [REDACTED] 2013, the Department sent the Appellant's son ("POA") a W-1348TLC verification form requesting information needed to process the Appellant's application. The Department requested verification on financial accounts for [REDACTED] and [REDACTED] for the years 2008, 2009 and 2010 and all monthly statements from [REDACTED] 2010 to the date of application. Included in the accounts were bank accounts and a life insurance policy. The information was due by [REDACTED], 2013. (Summary, Exhibit 11: W-1348LTC dated [REDACTED]-13)
5. In addition to the W-1348TLC a W-1SA application for determination of spousal assets was sent. (Summary)
6. On [REDACTED] 2013, all requested information was received and the total reported assets were \$38,344.12. (Summary)
7. On [REDACTED] 2013, the Department denied the Appellant's application for W01 Medicaid for being over assets. (Summary)
8. The Department granted the Appellant State funded home care. (Summary)
9. On [REDACTED] 2013, the W-1SA was received and the Department took no action as the application was denied. (Summary)
10. On [REDACTED] 2013, an application for Medicaid Long Term Care benefits was entered using the original application date for the W01 application as the Appellant was a resident at the Reservoir since [REDACTED] 2013. (Summary)

11. On [REDACTED] 2013, the Department sent the Appellant's son ("POA") a W-1348TLC verification form requesting information needed to process the Appellant's application. The Department requested a new W-1SA included be completed, monthly bank statements from [REDACTED] 2013 to present for Bank of America accounts and cash value for Catholic Association Insurance policy. The information was due by [REDACTED] 2013. (Summary, Exhibit 11: W-1348LTC dated [REDACTED]-13)
12. On [REDACTED] 2013, the Department received a completed W-1SA application for determination of spousal assets. (Exhibit 2: W-1SA application for determination of spousal assets [REDACTED]-13)
13. On [REDACTED] 2103, the Department sent the Appellant's son ("POA") a W-1348TLC verification form requesting information needed to process the Appellant's application. The Department requested monthly bank statements from [REDACTED] 2013 to present for Bank of America accounts and cash value for Catholic Association Insurance policy. The information was due by [REDACTED] 2013. (Summary, Exhibit 11: W-1348LTC dated [REDACTED] 13)
14. The Department received requested verifications for the bank accounts and the insurance policy. (Exhibits 5, 6, 7, 8, 9: Bank of America bank statements, Exhibit 10: Catholic Association insurance policy verifications)
15. The Appellant's spouse lives in the community. (Summary, Testimony)
16. A Community Spousal Assessment was done to determine the total value of the assets as date of institutionalization. (Exhibit 4)
17. The combined total of the Appellant and the Community Spouse's non-exempt assets was \$44,564.75 as of the DOI. (Summary, Exhibit 4)
18. The spousal share of the assets was \$22,282.38 as of the DOI ($\frac{1}{2}$ of the couple's combined non-exempt assets). (Summary, Exhibit 4)
19. The Community Spouse Protected Amount ("CSPA") minimum amount was \$23,184.00 as of the DOI. (Exhibit 4)
20. The maximum asset limit for a Medicaid applicant is \$1,600.00. (Exhibit 4)
21. The total combined assets retainable for the Appellant and his spouse equals \$24,784.00 (CSPA amount of \$23,184.00 + \$1600.00 medicaid limit). (Exhibit 4)
22. The amount needed to be spent down to the asset limit equals \$19,780.75 (\$44,564.75 Total assets minus \$24,784.00 Total retainable assets) (Exhibit 4)

23. On [REDACTED] 2013, the Department sent the Appellant's son ("POA") a W-1348TLC verification form requesting information needed to process the Appellant's application. The Department was requesting Bank of America statements from [REDACTED], 2013 to the present time for one account. The Department included a Assessment of Spousal Assets notification of results form. The information requested was due by [REDACTED] 2013. (Summary, Exhibit 11: W-1348LTC dated [REDACTED]-13, Exhibit 3: assessment of spousal assets notification of results)
24. On [REDACTED], 2013, the Department received verification that the total asset were reduced to \$24,411.20. (Summary)
25. On [REDACTED] 2013, the Department granted the Appellant L01 Medicaid benefits effective for [REDACTED] 2013. (Summary)
26. The Appellant is seeking Medicaid eligibility effective for [REDACTED] 2013. (Testimony)
27. The Appellant's representatives argue the Department's error in not continuing the application process correctly and denying the Appellant's application in [REDACTED] 2013 should not adversely affect the Appellant. (Testimony)

CONCLUSIONS OF LAW

1. Section 17b-260 of the Connecticut General Statutes provides for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.
2. UPM § 4025.67(A) provides that when the applicant or recipient who is a MCCA spouse begins a continuous stay of institutionalization, the assets of his or her community spouse (CS) are deemed through the institutionalized spouse's initial month of eligibility as an institutionalized spouse (IS). As described in 4025.67 D, the CS' assets are deemed to the IS to the extent that such assets exceed the Community Spouse Protected Amount. Any assets deemed by the CS are added to the assets of the IS and the total is compared to the asset limit for the IS (the Medicaid asset limit for one adult).
3. UPM § 4025.67 (D) pertains to the deeming methodology for MCCA spouses and states in part:

Deeming Methodology

1. The Department calculates the amount of assets deemed to the institutionalized spouse from the community spouse by subtracting the Community Spouse Protected Amount (CSPA)

from the community spouse's total available non-excluded assets.

2. The Department calculates the community spouse's total available non- excluded assets by subtracting the value of the following assets from the total value of the assets owned by the community spouse:
 - a. inaccessible assets; and
 - b. excluded assets.
3. Every January 1, the CSPA shall be equal to the greatest of the following amounts:
 - a. the minimum CSPA; or
 - b. the lesser of:
 - (1) the spousal share calculated in the assessment of spousal assets (Cross Reference 1507.05); or
 - (2) the maximum CSPA; or
 - c. the amount established through a Fair Hearing decision (Cross Reference 1570); or
 - d. the amount established pursuant to a court order for the purpose of providing necessary spousal support.
4. The Department correctly determined that the community spouse's share of the total assets is \$23,184.00, which is the minimum CSPA.
5. UPM § 4022.05(B)(2) provides that every January 1, the CSPA shall be equal to the greatest of the following amounts:
 - (a) the minimum CSPA; or
 - (b) the lesser amount of:
 - (1) the spousal share calculated in the assessment of spousal assets (Cross Reference 1507.05); or
 - (2) the maximum CSPA; or
 - (c) the amount established through a Fair Hearing decision (Cross Reference 1570); or
 - (d) the amount established pursuant to a court order for the purpose of providing necessary spousal support.

6. The Department correctly calculated the CSPA at \$23,184.00, in accordance with the regulation.
7. UPM § 4005.10(A)(2)(a) provides that the asset limit for Medicaid for a needs group of one is \$1,600.00.
8. The Department correctly granted the Appellant's Medicaid effective [REDACTED] 2013, the month the assets were reduced below the asset limit.

DISCUSSION

The Appellant's representative argued that the Department's delay in processing the Appellant's application and incorrectly denying the application deprived the Appellant of an earlier grant date. They have a valid point, but the undersigned cannot provide the relief they seek. The Appellant is over the asset limit until [REDACTED] 2013. The assets were reduced below the asset limit as of that month. There is no way to determine an earlier eligibility date. The Appellant is eligible as of the date the Department can verify they are below the asset limit. The assets were available to the Appellant and his spouse until [REDACTED] 2013. The Appellant's representatives have written to the Commissioner to request an administrative exception.

DECISION

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


Miklos Mencseli
Hearing Officer

C: Lisa Wells, Operations Manager, DSS R.O. #10 Hartford

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.

