

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#: 563178

NOTICE OF DECISION

PARTY

██████████  
██  
██  
██

PROCEDURAL BACKGROUND

On ██████████ 2013, the Department of Social Services (the "Department") granted ██████████, ("the Appellant") ██████████ 2013, application for Medicaid Long Term Care benefits effective ██████████ 2013.

On ██████████ ██████████, 2013, ██████████ ██████████ ██████████, the Appellant's Representative 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 ██████████ 2013.

On ██████████, 2013, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████ ██████████, 2014.

On ██████████ 2014, 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:

██, Appellant's Conservator of Estate  
Christine Moffitt, 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] 2013.

## **FINDINGS OF FACT**

1. Effective [REDACTED] 2012, the Appellant was a resident at Kettlebrook Care Center in East Windsor, CT. (Department's Exhibit I : Institution Screen)
2. On [REDACTED] 2013, the Appellant's representative received his appointment as Conservator of Estate. (Departments Exhibit J: Fiduciary's Probate Certificate, W-450 dated [REDACTED]/13)
3. On [REDACTED] 2013, the Appellant applied for Title XIX Long-Term Care Medical Assistance. (Hearing Summary, Ex. D: W-1F, Application, [REDACTED]/13)
4. The Appellant is not married. (Hearing Record)
5. The Asset limit is \$1600.00 for Long Term Care Medical Assistance. (Appellant Testimony, Department Testimony)
6. On [REDACTED] 2013, the Department mailed the conservator a W-1348LTC – We Need Verification from You requesting verifications that were needed to establish eligibility. Among the items requested were statements for bank and investment accounts. (Ex. A: Case narrative, [REDACTED]/13, Testimony)
7. The Appellant was the owner of the following accounts during the application process: Columbia Management Investment Account # [REDACTED] and Quinnipiac Bank & Trust checking account # [REDACTED]. (Ex. G: Quinnipiac Bank statements [REDACTED]13 through [REDACTED]13, Ex. H: Columbia Management Quarterly Statement [REDACTED]13 through [REDACTED]/13)
8. On [REDACTED] 2013, the Columbia Management Account closed with a value of \$23,570.00. (Ex. H)
9. On [REDACTED] 2013, the proceeds of \$23,576.69 from the Columbia account were deposited into Quinnipiac bank account. (Ex. G)
10. On [REDACTED] 2013, the Appellant's conservator made a payment to Kettlebrook Care center in the amount of \$20,000. (Ex. G: Quinnipiac account statement / Copy of check)

11. On [REDACTED] 2013, the Appellant's conservator made a payment to Kettlebrook Care Center in the amount of \$4000.00. (Ex. G: Quinnipiac statement/ copy of check)
12. The Appellant's assets for the months of [REDACTED] 2013 through [REDACTED] 2013 were the following :

| Month      | Columbia Acct# [REDACTED] | Quinnipiac Acct# [REDACTED] |
|------------|---------------------------|-----------------------------|
| March 2013 | \$23,570.99               | \$0.00                      |
| April 2013 | \$23,570.99               | \$6517.72                   |
| May 2013   | \$0.00                    | \$5027.80                   |
| June 2013  | \$0.00                    | \$5027.80                   |

(Ex. G, Ex. H, Exhibit E: Asset 1 pages)

13. In [REDACTED] 2013, the Appellant reduced his assets to below \$1600.00. (Hearing Summary, Ex. G: Quinnipiac Bank statement)
17. On [REDACTED] 2013, the Department granted the Appellant's [REDACTED] 2013, application for Medicaid Assistance effective [REDACTED] 2013. (Hearing Summary, Ex. F: Notice Content, [REDACTED]/13)

### **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 Columbia Management and Quinnipiac Bank accounts were available to the Appellant.
5. 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] 2013 through [REDACTED] 2013.
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] 2013, the Department correctly granted the Appellant's [REDACTED] 2013 application for Long Term Care Medicaid effective [REDACTED], 2013, as the assets were reduced to under the allowable limit.

### **DISCUSSION**

The hearing centered around a Columbia Management investment account and a checking account owned by the Appellant. The Appellant's conservator testified that he was appointed after the POA became overwhelmed with the application process. The facility requested a conservator. The Appellant's representative testified that his biggest challenge was obtaining authorization in order to liquidate accounts. He testified that for the first two months of the application ([REDACTED] and [REDACTED]) the asset was out of his reach and should be deemed inaccessible. He argued that Columbia Management required Medallion signatures by himself and the POA in order to liquidate the asset.

In [REDACTED] 2013, the Columbia account was liquidated and \$20,000 of the total proceeds of \$23,570.99 was paid to the nursing facility. The conservator testified that the Quinnipiac bank account maintained a balance over the \$1600.00 asset limit throughout the process. The conservator maintained a balance of over \$5000.00 for the months of [REDACTED] and [REDACTED]. He testified that it was not clear if the Appellant would have a tax liability related to the liquidation of his investments or would have any additional indebtedness to other entities. He testified that it was necessary that the money remained in the bank account for a period of time until those issues were clarified. In [REDACTED] 2013, the final check was sent to Kettlebrook from the Quinnipiac account reducing the assets to under the \$1600.00 Medicaid asset limit.

I find that the Department acted correctly when processing the Appellant's application. There is no provision in Departmental regulations which would exclude the Columbia Management account from consideration because the Appellant's conservator was making reasonable efforts to obtain control over the Columbia account and reduce it to under the \$1600.00 limit. The Appellant's representative delayed reducing the Quinnipiac bank account until [REDACTED] 2013 because of potential tax liability and or other indebtedness. There is no provision in Department regulations that allows the Appellant's representative the ability to delay reducing the asset because of potential liabilities.

**DECISION**

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



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Scott Zuckerman  
Hearing Officer

### **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.

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