

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 #: 576240

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████ 2013, the Department of Social Services (the "Department") sent ██████████ ("Appellant"), a Notice indicating that her client ██████████ ("applicant") application for Long Term Care (LTC) Medicaid benefits were denied for the months of ██████████ 2011 through ██████████ 2013.

On ██████████ 2013, the Appellant requested an administrative hearing to contest the Department's decision to deny the applicant's application for LTC Medicaid benefits.

On ██████████ 2014, 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 4-189, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing.

The following individuals were present at the hearing:

██████████ Appellant
██████████, Appellant's son
██████████, son's spouse
Lidia Perez, Department's Representative

Karen Brown, Hearing Officer

The hearing record closed on [REDACTED] 2014 for receipt of additional information from the Appellant.

STATEMENT OF THE ISSUE

The issue is whether the Department was correct to deny the applicant's application for Long Term Care Medicaid benefits.

FINDINGS OF FACT

1. On [REDACTED] 1998, the applicant opened an account with AT&T Inc. with account number ending in [REDACTED]. (Exhibit 2: Verification of assets letter from Computershare [REDACTED]-13)
2. On [REDACTED] 2008, the applicant's son [REDACTED] was appointed as her power-of-attorney. (Exhibit 12: Durable Power of Attorney certificate)
3. As of [REDACTED] 2011, the applicant had two accounts with Sovereign Bank (ending in [REDACTED] and [REDACTED]) totaling \$12,422.88. Her son [REDACTED] is listed as the power-or-attorney on the account. (Exhibit 3: Sovereign Bank statement [REDACTED]-11 through [REDACTED]-11)
4. On [REDACTED] 2011, the applicant received a deposit of \$301.86 from AT&T Inc. from account number ending in [REDACTED]. (Exhibit 2)
5. On [REDACTED] 2011, Hughes Convalescent home admitted the applicant. (Appellant's Exhibit A: W-10 from UConn/John Dempsey Hospital)
6. On [REDACTED] 2011, the Department received the applicant's request for Long Term Care Medicaid benefits. (Exhibit 9: W-1F application)
7. On [REDACTED] 2012, the applicant passed. (Hearing Summary)
8. In [REDACTED], the application was transferred to the Danbury office from the Harford office. (Hearing Summary)
9. On [REDACTED] 2013, the Department sent the Appellant a W-1348 form requesting the following: copy of contract between the applicant and her son, copy of chart showing care he provided, bank statements with checks from [REDACTED] 2011 through [REDACTED] 2012 from Sovereign Santander Bank, verification of weekly deposits of \$297.46 through [REDACTED] 2008, proof of two sources of identified deposits, proof of status of Met Life insurance policy and Met Life stock owned back to [REDACTED] 2006, proof of all AT&T stock owned back to 2006 and proof of when it was cashed in, proof of \$17,959.50 cash transaction from Pacific Life, printout

from Farmington Bank account and proof of closing withdrawals from accounts, and copies of federal tax returns from 2006 through 2011. The letter indicated that the asset limit is \$1,600. The requested information was due by [REDACTED], 2013. (Exhibit 2: W-1348 LTC [REDACTED]-11)

10. On [REDACTED] 2013, the Department sent the Appellant another W-1348 requesting the same information as was on the [REDACTED] 2013 request, with additional requests of proof of \$17,273.36 deposit on [REDACTED]-11, and copies of invoices from A&D Home Solutions. The requested information was due by [REDACTED] 2013. (Exhibit 5:W-1348 [REDACTED]-13)
11. The Department received some of the requested information. (Department's Testimony)
12. On [REDACTED] 2013, the Department sent the Appellant a next W-1348 requesting, in addition to what was indicated on past W-1348, minus the requested A&D invoices. The requested information was due by [REDACTED] 2013 (Exhibit 6:W-1348 [REDACTED]-13)
13. The Department sent out a tracer to Computershare to verify the amount of the AT&T stock. (Hearing Summary)
14. As of [REDACTED] 2013, the applicant owned 702 shares of AT&T stock valued at \$33.32 per share, totaling \$23,390.64. (Exhibit 2)
15. The applicant's assets exceeded the Medicaid asset limit of \$1,600.00 for one person. (Fact #14)
16. On [REDACTED] 2013, the Department denied the applicant's Long Term Care Medicaid application for the months of [REDACTED] 2011 through [REDACTED] [REDACTED] 2013 due to excess assets. (Exhibit 1: Notice [REDACTED]-13)

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. UPM Section 4030.75.A.1 provides, in part that the equity value of a share of stock is the net amount the owner would receive upon selling the share.
 7. The Department requested verification of proof of the shares of the AT&T stock and when they were cashed out.
 8. The applicant still owned the AT&T stock and received a monthly dividend payment.
 9. UPM Section 4005.10.A.2.a provides that the Medicaid asset limit for one person is \$1,600.
 10. The Department correctly determined that the applicant's assets exceeded the \$1,600.00 Medicaid asset limit.
 11. The Department correctly denied the applicant's eligibility for LTC Medicaid for the months of [REDACTED] 2011 through [REDACTED] 2013.

DISCUSSION

The Appellant argued that the applicant's son was not aware of the AT&T stock; however, the applicant's monthly bank statements, which listed her son as power of attorney, showed a deposit of \$301.86 from AT&T, which occurred monthly. There were other arguments and evidence submitted to show that the applicant had dementia when she was admitted to the nursing home (Appellant's Exhibit A). The Appellant further argued that the son believed that this AT&T information on the statement did not present a problem as he was unaware of what it was. The Appellant also argued that the application was pending for over a year with no action taken on the case in 2012 until 2013, where these issues could have been addressed sooner. It is unclear whether or not the applicant's son made any contact with the Department in 2012 to find out the status of the pending application. 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 undisputed fact is that the applicant had assets that exceeded the allowable

LTC Medicaid asset limit.

DECISION

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

A handwritten signature in black ink, appearing to read "Karen Brown", written over a horizontal line.

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.