

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3725

[REDACTED] 2014
Signature Confirmation

Client ID # [REDACTED]
Request # 578553

NOTICE OF DECISION

PARTY

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED] 2014, the Department of Social Services (the "Department") sent [REDACTED], (the "Appellant") a Notice of Action ("NOA") denying her application for Medicaid benefits for [REDACTED] 2012 through [REDACTED] 2013 and granting effective [REDACTED] 2013.

On [REDACTED], 2014, the Appellant requested an administrative hearing to contest the Department's decision to deny the Appellant's application for Medicaid.

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

On [REDACTED] 2014, OLCRAH issued a notice rescheduling the administrative hearing for [REDACTED] 2014.

On [REDACTED] 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:

[REDACTED], Appellant's Spouse
 [REDACTED], Appellant's Attorney
 Maureen Harry, Department's Representative
 Sybil Hardy, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether the Department correctly denied the Appellant's Long Term Care Medicaid application due to excess assets.

FINDINGS OF FACT

1. On [REDACTED] 2012, the Department received an application on behalf of the Appellant for Long Term Care assistance under the Medicaid program. (Exhibit 13: Notice of Action, [REDACTED]/13)
2. The Appellant is married and her spouse lives in the community. (Appellant's Representative's testimony)
3. During [REDACTED], the Appellant was admitted to the skilled nursing facility, Arden House, Hamden, Connecticut (Hearing Record)
4. The Appellant's spouse was granted a Community Spouse Protected Amount ("CSPA") of \$92,242.64. (Hearing Record)
5. The Appellant monthly Social Security benefit payments of \$594.00 were directly deposited to the First Niagra checking account. (Appellant's Attorney's testimony) (Exhibit 9: First Niagra checking account# [REDACTED])
6. The Appellant's spouse's monthly Social Security benefit payments of \$1,806.10 were directly deposited to his TD Bank checking account. (Exhibit 8: TD Bank checking account# [REDACTED])
7. On [REDACTED] 2014, the Appellant had the following assets and balances:

Asset	Balance	Name on Account
Ameriprise [REDACTED]	\$4,800.00	Spouse
Bank of America [REDACTED]	\$22,060.62	Spouse
Bank of America [REDACTED]	\$1,000.00	Spouse
First Niagra [REDACTED]	\$17,293.29	Spouse
First Niagra [REDACTED]	\$1,860.89	Spouse
Genworth [REDACTED]	\$34,526.51	Spouse
Met Life [REDACTED]	\$16,435.70	Spouse

Met Life [REDACTED]	\$50,344.95	Spouse
Met Life [REDACTED]	\$1,000.00	Spouse
New York Life [REDACTED]	\$26,000.00	Spouse
TD Bank [REDACTED]	\$1,757.53	Spouse
TD Bank [REDACTED]	\$1,349.17	Spouse
TD Bank [REDACTED]	\$10.00	Spouse
USB [REDACTED]	\$5,396.02	Spouse
Webster Bank [REDACTED]	\$1,018.58	Appellant

(Exhibit 1: Notification of Spousal Assessment, [REDACTED]/13)

8. The Appellant's Attorney does not dispute the assets or balances. (Appellant's Attorney's testimony)
9. The Appellant's Attorney does not dispute the timeframe that the Appellant's Assets were reduced below \$1,600.00. (Appellant's Attorney's testimony)
10. The Appellant's Attorney was aware of the \$1,600.00 for the Medicaid program. (Appellant's Attorney's testimony)
11. During [REDACTED] 2013, the Appellant's assets were reduced to less than \$1,600.00. (Appellant's Attorney's testimony)
12. On [REDACTED] 2013, the Department sent the Appellant a Notice denying medical assistance from [REDACTED] 2012 through [REDACTED] 2013 and granting effective [REDACTED] 2013. (Exhibit 13)

CONCLUSIONS OF LAW

1. Section 17b-260 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the Medicaid program.
2. Uniform Policy Manual ("UPM") § 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 assistance unit.
3. UPM § 4030 provides that the Department evaluates all types of assets available to the assistance unit when determining the unit's eligibility for benefits.
4. Connecticut General Statutes 17b-261(c) provides that for the purposes of determining eligibility for the Medicaid program, an available asset is one that is actually available to the applicant or one that the applicant has the legal right, authority or power to obtain or to have applied for the applicant's general or medical support. If the terms of a trust provide for the support of an applicant, the refusal of a trustee to make a distribution from the trust does not render the trust an unavailable asset. Notwithstanding the provisions of this subsection, the availability

of funds in a trust or similar instrument funded in whole or in part by the applicant or the applicant's spouse shall be determined pursuant to the Omnibus Budget Reconciliation Act of 1993, 42 USC 1396p.

5. 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.
6. UPM § 4005.05 (D) provides that an assistance unit is not eligible for benefits under a particular program if the unit's equity in counted assets exceeds the asset limit for the particular program.
7. UPM § 4005.10 (A) (2) (a) provides that the asset limit for Medicaid for a needs group of one is \$1,600.
8. The Department correctly determined that the accounts with Ameriprise, Bank of America, First Niagra, Genworth, Met Life, New York Life, TD Bank, USB and Webster Bank are owned by the Appellant and her spouse.
9. UPM § 4005.15 provides that at the time of application, the assistance unit is ineligible for assistance until the first day it reduces its equity in counted assets to within the particular program asset limit.
10. The Department correctly determined that the Ameriprise, Bank of America, First Niagra, Genworth, Mel Life, New York Life, TD Bank, USB and Webster Bank accounts were accessible assets for the Appellant.
11. The Department correctly determined that the Appellant's assets exceeded the \$1,600.00 asset limit for period [REDACTED] 2012 through [REDACTED] 2013.
12. The Department correctly determined that the Appellant was ineligible for Medicaid for the period of [REDACTED] 2012 through [REDACTED] 2013.
13. The Department correctly denied the Appellant's Long Term Care Application from [REDACTED] 2012 through [REDACTED] 2013.

DISCUSSION

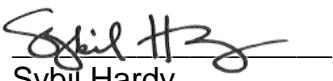
The Department correctly denied the Appellant's Long Term Care Application for the period of [REDACTED] 2012 through [REDACTED] 2013 and granting effective [REDACTED] 2013. The Appellant's Attorney gave testimony that they were aware of the asset limit but could not reduce the assets until [REDACTED] 2013 due to the length of time it took to process the application.

However, the assets were accessible to the Appellant for those months and must be counted by the Department. The Department correctly denied the Applicant's request for

Medicaid because the Appellant's assets exceeded the asset limit for the Medicaid program for [REDACTED] 2012 through [REDACTED] 2013.

DECISION

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



Sybil Hardy
Hearing Officer

Pc: Peter Bucknall, Operations Manager; DSS R.O. # 20; New Haven

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 Administrative Hearings and Appeals, 55 Farmington Avenue Hartford, CT 06105.

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, 55 Farmington Avenue Hartford, CT 06105. 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 the Commissioner's 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.