

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

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

Client ID # ██████████
Request # 595973

NOTICE OF DECISION

PARTY

██████████
██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2013, the Department of Social Services (the "Department") granted Medicaid Long Term Care coverage for ██████████ ("the Appellant") effective ██████████ 2013, and denied coverage for the months of ██████ and ██████ 2013.

On ██████████ 2013, the Appellant's daughter and former Power of Attorney, ██████████, requested an administrative hearing to contest the Department's decision to deny such benefits.

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

On ██████████ 2014, the Appellant's Representative requested a rescheduled hearing date and this request was granted.

On ██████████ 2014, OLCRAH issued a Notice rescheduling the administrative hearing for ██████████, 2014.

On ██████████, 2014, the Appellant's Representative was brought into the hearing room late and the hearing needed to be rescheduled.

On ██████████ 2014, OLCRAH issued a Notice rescheduling the administrative hearing for ██████████ 2014.

On [REDACTED] 2014, the Appellant's Representative requested a rescheduled hearing date and this request was granted.

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

On [REDACTED] 2014, in accordance with sections 17b-60, 17-61 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 Daughter and Former Power of Attorney
[REDACTED], Witness, Appellant's Daughter
[REDACTED], Witness, Appellant's Son-in-law
Janice Scricca, Department's Representative
Andrea Boardman, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny Medicaid Long Term Care assistance for the months of [REDACTED] and [REDACTED] of 2013, to the Appellant was correct.

FINDINGS OF FACT

1. On [REDACTED] 2013, the Appellant was admitted to Plainville Health Care Center. The Appellant was active with the State-funded Pre-Admission Screening program (M03) and the Qualified Medicare Beneficiaries (QMB) programs. (Exhibit 10: Department's Institution Screen Print and Department's Testimony)
2. On [REDACTED], 2013, the Appellant applied for long term Medical Assistance. (Department's Testimony)
3. On [REDACTED] 2013, the Department retrieved the Appellant's application from the database and began to process it. (Department's Testimony)
4. On [REDACTED] 2013, the Department sent a "Verification We Need" document to the Power of Attorney requesting five years of bank statements to complete the required asset examination or "look back". (Exhibit 4: Case Narrative and Department's Testimony)
5. On [REDACTED], 2013, the Department received the requested bank statements and determined that as of [REDACTED], 2013, the Appellant's assets

exceeded the \$1,600.00 asset limit, as the Sun Life Annuity itself had a balance of \$14,909.99. (Exhibit 10: Statement from Sun Life Financial)

6. On [REDACTED] 2013, the Department sent another "Verification We Need" document to the Power of Attorney advising her that the Appellant's assets exceed the Department's asset limit of \$1,600.00, and that Medicaid will not cover nursing home room and board payments until the assets are within this limit. This document went on to request verification of how the assets were reduced. (Exhibit 4)

7. The Sun Life Annuity was cashed in on [REDACTED] 2014. The proceeds were used to pay the first month of room and board for the Appellant at the facility, and pay for glasses, dentures and hearing aids and taxes. (Former Power of Attorney's Testimony)

8. The Department was able to follow the track of remaining funds from the Sun Life account into a Santander bank account. (Department's Testimony)

9. In [REDACTED] of 2013, the Appellant's assets totaled \$2,297.01. (Exhibit 3: Department's Asset 1 Screens for the months of [REDACTED] through [REDACTED] of 2013)

10. In [REDACTED] of 2013, the Appellant's assets totaled \$2,297.01. (Exhibit 3)

11. In [REDACTED] of 2013, the Appellant's assets totaled \$2,299.02. (Exhibit 3)

12. In [REDACTED] of 2013, the Appellant's assets totaled \$1,576.86 and the Department determined that her assets were within program limits effective [REDACTED] 1, 2013, in accordance with regulation. (Exhibit 3 and Department's Testimony)

13. On [REDACTED] 2013, the Appellant passed away. (Former Power of Attorney's Testimony)

14. On [REDACTED] 2013, the Department granted long-term care Medicaid effective [REDACTED] 2013, the date the Appellant was asset eligible. The Department also established an applied income diversion for the months of [REDACTED] and [REDACTED] of 2013, to cover the unpaid room and board costs of \$25,640.00 at the facility and closed the benefit as the Appellant had passed away. (Exhibit 4 and Department's Testimony)

CONCLUSIONS OF LAW

1. Uniform Policy Manual ("UPM") 4000.01 defines the Asset Limit as the maximum amount of equity in counted assets which an assistance unit

may have and still be eligible for a particular program administered by the Department. This section also defines an Available Asset as cash or any item of value which is actually available to the individual or which the individual has the legal right, authority or power to obtain, or to have applied for, his or her general or medical support.

2. UPM 4005.10 provides that the asset limit for Long Term Care Medicaid equals \$1,600.00.
3. UPM 4005.15 A. 2 Reduction of Excess Assets provides: MA.AABD Residents of Long Term Care Facilities provides: 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.
4. The Department was correct to grant assistance effective [REDACTED] 2013 and as prior to this date, the Appellant's countable assets exceeded the Department's asset limit of \$1,600.00. The Department was correct to deny long term care Medicaid coverage for the months of [REDACTED] and [REDACTED] of 2013 as the Appellant's assets exceeded program limits during these months.

DISCUSSION

The former Power of Attorney verified that she was incapacitated throughout most of [REDACTED] of 2013, and reduced the assets as soon as she could. I do agree that the former Power of Attorney was incapacitated throughout most of [REDACTED] of 2013, and that she had good cause for not reducing the Appellant's assets earlier. However, the regulation is clear that applicants are not eligible until the first day of the month in which it reduces its equity in counted assets to within the asset limit. I have no authority to grant an exception.

DECISION

The Appellant's appeal is DENIED.

Andrea Boardman _____

Andrea Boardman
Hearing Officer

CC: P. Ober, Operations Manager, DSS R.O. # 52, New Britain Regional Office

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 06105-3725.

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 06105-3725. 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.