

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#: 599136

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████, 2014, the Department of Social Services (the “Department”) granted ██████████, (“the Appellant”) ██████████, 2013, application for Medicaid Long Term Care benefits effective ██████████ 2014.

On ██████████ 2014, ██████████ 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 ██████████ 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 4-184 of the Connecticut General Statutes, inclusive, OLCRAH held an administrative hearing. The following individuals were present at the hearing:

██████████, Appellant’s Conservator of Estate  
Audrey Brooks, Business Office Manager, Aurora Senior Living  
Andrew Hall, Regional Manager, Aurora Senior Living  
Brittany Velleca, 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] 2014.

### **FINDINGS OF FACT**

1. Effective [REDACTED] 2013, the Appellant was a resident at Aurora Senior Living of Cromwell, CT. (Department's Exhibit I2 : W-1LTC Long – term Care Application)
2. On [REDACTED] 2013, the Appellant's representative received his appointment as Conservator of Estate. (Appellant's Representative Testimony)
3. On [REDACTED] 2013, the Appellant applied for Title XIX Long-Term Care Medical Assistance. (Hearing Summary, Ex. 12: W-1LTC, Application, [REDACTED]/13)
4. The Appellant is seeking Medicaid eligibility effective [REDACTED] 2013 (Testimony)
5. The Appellant is divorced. (Hearing Record)
6. The Asset limit is \$1600.00 for Long Term Care Medical Assistance. (Appellant Testimony, Department Testimony)
7. 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 two years of bank statements for all accounts and verifications of cash surrender values for all life insurance policies. The form requested that the Appellant reduce his countable assets to \$1600.00 or less (Ex. 5 W-1348LTC, 12/2/13, Ex. 13: Case narrative, [REDACTED]13, Testimony)
8. The Appellant was the owner of the following bank accounts and life insurance policies during the application process: Peoples United Bank checking account # [REDACTED]; Peoples United Bank Savings account # [REDACTED]; Liberty Bank checking account # [REDACTED]; AARP New York Life Insurance contract # [REDACTED] and AARP New York Life Insurance contract # [REDACTED]. (Ex. A: Peoples United Bank statements [REDACTED]/13 through [REDACTED]/13, Ex. 1: Peoples United Bank statement [REDACTED]/13, Ex. 2: AARP New York Life [REDACTED] statement of account, [REDACTED]/13, Ex. 3: AARP New York Life [REDACTED] statement of account, [REDACTED]/13 and Ex. 8: Liberty Bank account details / transactions [REDACTED]/13 through [REDACTED]/14, [REDACTED] 2014)

9. On [REDACTED] 2013, the AARP New York Life policy # [REDACTED] is surrendered. The surrender value is \$244.01. (Ex. 2: New York Life Statement of Account, [REDACTED]/13)
10. On [REDACTED], 2013, the AARP New York Life policy # [REDACTED] is surrendered. The surrender value is \$902.71. (Ex. 3: New York Life statement of account, [REDACTED]/13)
11. On [REDACTED] 2013, the proceeds totaling \$1,146.72 from the surrender of the AARP New York Life policies are deposited into Liberty Bank account # [REDACTED]. (\$244.01 + \$902.71 = \$1,146.72). (Ex. 8: Liberty Bank Account Details, [REDACTED]/14)
12. On [REDACTED], 2013, the Appellant receives additional proceeds of \$16.80 from the cancellation of the New York Life contract # [REDACTED]. (Appellants Exhibit B: AARP Letter and cancelled check, [REDACTED]/13)
13. On [REDACTED] 2014, the proceeds of \$16.80 from the cancellation of the New York Life contract # [REDACTED] are deposited into the Liberty Bank account. (Ex. 8: Liberty Bank account details, [REDACTED]/14)
14. 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 Peoples checking and savings account statements from [REDACTED] 2013 to current and cash values for the AARP New York Life policies. The form requested that the Appellant reduce his countable assets to \$1600.00 or less. (Ex. 6: W-1348LTC, [REDACTED]/14, Ex. 13: Case narrative, [REDACTED]/14)
15. On [REDACTED] 2014, the People's United bank savings account # [REDACTED] closed. The closing balance is \$.72. (Ex. 4: People's United Bank Transaction receipt, [REDACTED]/14)
16. On [REDACTED], 2014, the People's United bank checking account # [REDACTED] closed. The closing balance is \$9,563.82. (Ex. 4: People's United Bank Transaction receipt, [REDACTED]/14)
17. On [REDACTED] 2014, the closing balances from the Peoples United Bank checking and savings accounts are deposited into the Liberty Bank account. The amount of the deposit is \$9,564.54. (\$0.72 + \$9,563.82) (Ex. 8: Liberty bank account details, [REDACTED]/14)
18. On [REDACTED] 2014, the Department mailed the Appellant's conservator a W-1348LTC – We Need Verification from You, requesting verifications that were needed to establish eligibility. Among the items requested were Peoples checking and savings account statements from [REDACTED] 2013 to current. The form

requested that the Appellant reduce his countable assets to \$1600.00 or less. (Ex. 6: W-1348LTC, [REDACTED]/14, Ex. 13: Case narrative, [REDACTED]/14)

19. On [REDACTED] 2014, the Appellant's conservator made a payment to Aurora Senior Living of Cromwell in the amount of \$5893.30. (Ex. 9: Liberty bank account # [REDACTED] payment history)
20. On [REDACTED] 2014 the Appellant's conservator made a payment to Allinson & Associates LLC in the amount of \$3500.00. (Ex. 9: Liberty bank account # [REDACTED] payment history)
21. On [REDACTED] 2014, the Appellant's conservator made a payment to Attorney Robert L Curzan in the amount of \$1100.00. (Ex. 9: Liberty bank account # [REDACTED] payment history)
22. On [REDACTED] 2014, the Appellant's conservator made a payment to the Appellant in the amount of \$134.76. (Ex. 9: Liberty bank account # [REDACTED] payment history)
23. The Appellant's assets for the months of [REDACTED] 2013 through [REDACTED] 2014 were the following :

Month	Peoples checking # [REDACTED]	Peoples savings # [REDACTED]	AARP NYL # [REDACTED]	AARP NYL # [REDACTED]	Liberty Bank # [REDACTED]
[REDACTED] 2013	\$4,002.02	\$0.72	\$244.01	\$902.71	\$0.00
[REDACTED] 2013	\$5,019.26	\$0.72	\$244.01	\$902.71	\$50.00
[REDACTED] 2013	\$7,183.34	\$0.72	\$244.01	\$902.71	\$50.00
[REDACTED] 2013	\$9,563.82	\$0.72	\$0.00	\$0.00	\$1,196.72
[REDACTED] 2014	\$0.00	\$0.00	\$0.00	\$0.00	\$10,778.06
[REDACTED] 2014	\$0.00	\$0.00	\$0.00	\$0.00	\$150.00

(Appellant's Ex. A: Peoples Bank statements, [REDACTED]/13 – [REDACTED]/13, Ex. 1, Peoples Bank statement [REDACTED]/13, Ex. 8: Liberty Bank account details/transactions, Ex. 9: Liberty Bank Payment history, Ex. 10: Assets 1 screen print)

24. In [REDACTED] 2014, the Appellant reduced his assets to below \$1600.00. (Hearing Summary, Ex. A, Ex. 1, Ex. 8, Ex. 9, Appellant's conservator's testimony)
17. On [REDACTED] 2014, the Department granted the Appellant's [REDACTED] 2014 application for Medicaid Assistance effective [REDACTED] 2014. (Hearing Summary, Ex. 11: Notice Content, [REDACTED]/14)

**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. 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.
5. The Department correctly determined that the Appellant's Peoples United Bank accounts, Life Insurance cash values and Liberty Bank account were available to the Appellant.
6. 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] 2014.
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] 2014, the Department correctly granted the Appellant's [REDACTED] [REDACTED] 2013 application for Long Term Care Medicaid effective [REDACTED] 2014, as the assets were reduced to under the allowable limit.


### DISCUSSION

The Appellant's conservator testified that he did not have permission by the probate court to make payments out of the Liberty Bank account and spenddown the assets until [REDACTED] 2014. The Appellant's conservator testified that he was unaware of the life insurance policies until he received the initial W-1348 from the Department in [REDACTED] 2013.

I find that the Department acted correctly when processing the Appellant's application. There is no provision in Departmental regulations which would exclude the People's United Bank accounts, Liberty account and Life Insurance policies from consideration because the Appellant's conservator was making reasonable efforts to obtain control over the accounts and reduce it to under the \$1600.00 limit.

### DECISION

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

  
\_\_\_\_\_  
Scott Zuckerman  
Hearing Officer

Cc: Peter Bucknall, Operations Manager New Haven RO

### **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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