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#: 602127

NOTICE OF DECISION

PARTY

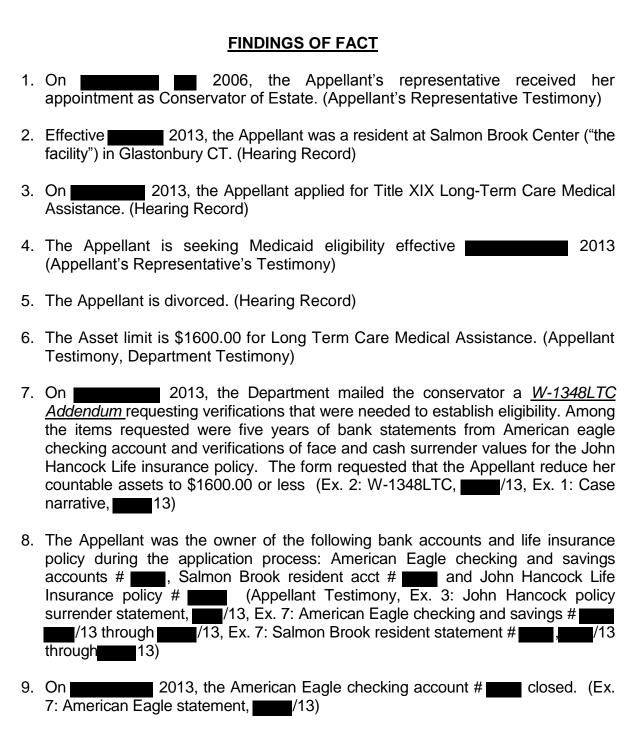


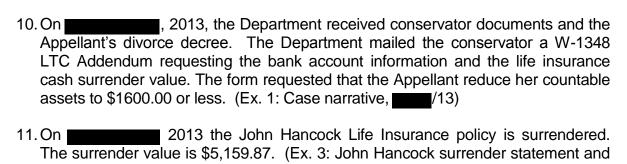
PROCEDURAL BACKGROUND

On 2014, the Department of Social Services (the "Department") granted 2013, application for Medicaid Long Term Care benefits effective 2013.
On 2014, 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 and daughter Ray Wagner, Business Office Manager, Salmon Brook Center Sayaka Miyakoshi, 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 2013.





(Appellant's Testimony, Ex. 1: Case narrative, 13)

13. On 2014, the Appellant past away. (Hearing record)

14. The Appellant's assets for the months of 2013 through 2014 were the following:

Month	John Hancock #	American bank # checking	American bank	Salmon Brook
		,J	savings	acct #
	\$5159.87	\$0.00	\$5.00	\$205.80
2013				
2013	\$5,159.87	\$0.00	\$5.00	\$150.81
2013	\$5,159.87	\$0.00	\$5.00	\$205.62
2013	\$0.00	\$0.00	\$5.00	\$225.63
2014	\$0.00	\$0.00	\$5.00	\$0.00

(Ex. 3: John Hancock surrender statement and copy of check, _____13, Ex. 7: American Eagle checking and savings # _____, ____/13 through _____/13, Appellant's conservator testimony)

- 15. In ______ 2013, the Appellant reduced her assets to below \$1600.00. (Hearing Summary, Appellant's representative's testimony, Ex. 3 & Ex. 7)
- 17. On 2014, the Department granted the Appellant's 2013 application for Medicaid Assistance effective 2013. (Ex. 4: Notice Content, 14)

CONCLUSIONS OF LAW

 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 John Hancock cash surrender values, American eagle accounts and Salmon Brook resident 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
 - 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 2013 through 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 2014, the Department correctly granted the Appellant's 2013 application for Long Term Care Medicaid effective 2013, as the assets were reduced to under the allowable limit.

DISCUSSION

The Appellant's conservator testified that she and the Appellant were aware of the life insurance policy but were unaware if it had a cash value. The conservator was unable to locate the Appellant's policy. The conservator stated John Hancock would not honor her conservatorship paperwork and would not discuss the policy with her until their legal department reviewed her paperwork. The conservator testified that she did not know there was a cash value until they received the check in 2013 and reduced the asset.

I find that the Department acted correctly when processing the Appellant's application. There is no provision in Departmental regulations which would exclude the John Hancock Life Insurance policy 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: John Hesterberg, Operations Manager, Manchester 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 <u>specific</u> grounds for the request: for example, indicate <u>what</u> error of fact or law, <u>what</u> new evidence, or <u>what</u> 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.