

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 ██████████, ("the Appellant") ██████████ 2013, application for Medicaid Long Term Care benefits effective ██████████ 2013.

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 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 [REDACTED] 2013.

### FINDINGS OF FACT

1. On [REDACTED] [REDACTED] 2006, the Appellant's representative received her appointment as Conservator of Estate. (Appellant's Representative Testimony)
2. Effective [REDACTED] 2013, the Appellant was a resident at Salmon Brook Center ("the facility") in Glastonbury CT. (Hearing Record)
3. On [REDACTED] 2013, the Appellant applied for Title XIX Long-Term Care Medical Assistance. (Hearing Record)
4. The Appellant is seeking Medicaid eligibility effective [REDACTED] 2013 (Appellant's Representative's 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 Addendum requesting verifications that were needed to establish eligibility. Among the items requested were five years of bank statements from American eagle checking account and verifications of face and cash surrender values for the John Hancock Life insurance policy. The form requested that the Appellant reduce her countable assets to \$1600.00 or less (Ex. 2: W-1348LTC, [REDACTED]/13, Ex. 1: Case narrative, [REDACTED] 13)
8. The Appellant was the owner of the following bank accounts and life insurance policy during the application process: American Eagle checking and savings accounts # [REDACTED], Salmon Brook resident acct # [REDACTED] and John Hancock Life Insurance policy # [REDACTED] (Appellant Testimony, Ex. 3: John Hancock policy surrender statement, [REDACTED]/13, Ex. 7: American Eagle checking and savings # [REDACTED] [REDACTED]/13 through [REDACTED]/13, Ex. 7: Salmon Brook resident statement # [REDACTED], [REDACTED]/13 through [REDACTED] 13)
9. On [REDACTED] 2013, the American Eagle checking account # [REDACTED] closed. (Ex. 7: American Eagle statement, [REDACTED]/13)

10. On [REDACTED], 2013, the Department received conservator documents and the Appellant's divorce decree. The Department mailed the conservator a W-1348 LTC Addendum requesting the bank account information and the life insurance cash surrender value. The form requested that the Appellant reduce her countable assets to \$1600.00 or less. (Ex. 1: Case narrative, [REDACTED]/13)
11. On [REDACTED] 2013 the John Hancock Life Insurance policy is surrendered. The surrender value is \$5,159.87. (Ex. 3: John Hancock surrender statement and copy of check, [REDACTED]/14)
12. Sometime in [REDACTED] 2013, the proceeds totaling \$5,159.87 from the surrender of the John Hancock Life Insurance policy are spent on a cremation contract for \$2,610.00. The remainder of the proceeds are used to pay the facility. (Appellant's Testimony, Ex. 1: Case narrative, [REDACTED]/13)
13. On [REDACTED] 2014, the Appellant past away. (Hearing record)
14. The Appellant's assets for the months of [REDACTED] 2013 through [REDACTED] 2014 were the following :

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

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

15. In [REDACTED] 2013, the Appellant reduced her assets to below \$1600.00. (Hearing Summary, Appellant's representative's testimony, Ex. 3 & Ex. 7)
17. On [REDACTED] 2014, the Department granted the Appellant's [REDACTED] 2013 application for Medicaid Assistance effective [REDACTED] 2013. (Ex. 4: 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 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
    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] 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 [REDACTED] 2014, the Department correctly granted the Appellant's [REDACTED] 2013 application for Long Term Care Medicaid effective [REDACTED] 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 [REDACTED] 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**.



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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 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.

