STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
25 SIGOURNEY STREET
HARTFORD, CT 06106-5033

[redacted] **2014**
Signature Confirmation

Client ID # [redacted]
Request # 602421

NOTICE OF DECISION

PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted] 2014, the Department of Social Services (the "Department") sent [redacted] (the "Appellant") a Notice of Action ("NOA) denying her benefits under the Medicaid for Long Term Care program for the period of [redacted] 2012, through [redacted] 2013, because the value of her assets was more than the amount allowed for this program.

On [redacted] 2014, the Appellant requested an administrative hearing to contest the Department's decision to deny such benefits.

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, 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], the Appellant's daughter and Power of Attorney ("POA")
[redacted] the Appellant's daughter
[redacted], Attorney for POA
Liza Perez, Eligibility Specialist, Department's representative
Roberta Gould, Hearing Officer

The hearing record was held open for the submission of additional evidence. The record closed on [redacted] 2014.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Appellant's benefits under the Medicaid for Long Term Care program for [redacted]2012, through [redacted] 2013, was correct.

FINDINGS OF FACT

1. The Appellant is a recipient of the Medicaid program. (Department's summary)

2. On [redacted] 2012, the Appellant applied for Medicaid benefits to cover the cost of her stay in a long-term care facility. (Department's summary)

3. On [redacted] 2012, the Department screened the Appellant's application for Medicaid for Long Term Care into the Eligibility Management System ("EMS"). (Exhibit E: EMS case narrative)

4. The Department did not send an application delay notice to the Appellant or the Appellant's POA. (POA's testimony and Department's testimony)

5. On [redacted] 2013, the Department sent the Appellant's POA a W-1348 Verification We Need Form requesting verification of the cash surrender value for the Appellant's Phoenix life insurance policies. The Department indicated that the asset limit for the Medicaid program for which she was applying was $1600.00. (Exhibit B: W-1348LTC and Department's summary)

6. On [redacted] 2014, the Department verified the Appellant's First Niagara bank account balances. The bank statement that the Appellant's POA submitted showed balances of $1,161.83 and $210.62 for a savings and checking account in [redacted] of 2013. (Exhibit E and Exhibit G: bank account statements)

7. The Appellant's First Niagara savings and checking account balances did not significantly change from [redacted] of 2012, through [redacted] of 2013. (Exhibit F: EMS Asset screens and Exhibit G)

8. On [redacted], 2014, the Department verified the Appellant's Phoenix life insurance policy value. The policy statement that the Appellant's life insurance company submitted showed a net surrender value of $743.31 as of [redacted] of 2013. (Exhibit H and Department's summary)

9. On [redacted], 2014, the Department denied the Appellant Medicaid for Long Term Care for the period of [redacted] of 2012, through [redacted] of 2013 because the value of her assets exceeded the allowable limit. (Exhibit J and Department's summary)

10. On [redacted], 2014, the Department granted the Appellant Medicaid for Long Term Care effective [redacted] 2013. (Exhibit J: EMS notice and Department's summary)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the Medicaid program.

2. UPM § 1505.35(B) provides that the Department notifies applicants of:
    1. any actions taken on applications; and
    2. when applications are not acted upon within the established time limits.

3. UPM § 1505.35(C)(1)(c) provides that the standard of promptness for processing applications for AFDC applicants and AABD or MA applicants applying on the basis of age or blindness is forty-five calendar days.

4. The Department did not issue an application delay notice to the Appellant or the Appellant's POA forty-five days after the Appellant's date of application for Medicaid assistance.

5. 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:

    a. available to the unit; or
    b. deemed available to the unit.

6. 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.

7. UPM § 5515.05 C 2 a and b provides in part that the needs group for an MAABD unit includes the following: the applicant or recipient and the spouse of the applicant or recipient when they share the same home regardless of whether one or both are applying for or receiving assistance.

8. UPM § 4005.10.A 2 b provides that in the MAABD program, the asset limit is $1600 for a needs group of one person.

9. UPM § 4005.15(B)(2)(b) provides that for recipients, if the assistance unit does not reduce its excess assets to an allowable level by the end of the month the excess first occurs, the unit is ineligible as of the first day of the following month and remains ineligible until the first day of the month in which the unit proper reduces its assets to an allowable level.

10. The Appellant had countable assets of $2,115.76 ($1,161.83 savings account balance + $210.62 checking account balance + $743.31 life insurance cash value).

11. The Department was correct when it determined that the Appellant's assets of $2,115.76 exceeded the limit of $1600.

12. The Department was correct when it denied the Appellant's Medicaid for Long Term Care benefits for [redacted] 2012, through [redacted] 2013, because her assets exceeded the allowable limit.

DISCUSSION

Although the Department did not send an application delay notice to the Appellant or the Appellant's POA forty-five days after her application for Medicaid for Long Term Care assistance, Medicaid policy is clear that the asset limit is $1600. The First Niagara bank statements and Phoenix life insurance statement provided clear and convincing evidence that the Applicant's assets exceeded the allowable limit. The Department was correct when it denied the application for Medicaid as the Applicant's assets exceeded the asset limit.

DECISION

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

Roberta Gould

Roberta Gould
Hearing Officer

PC: Albert Williams, Field Operations Manager
Musa Mohamud, Field Operations Manager
Hartford 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, 25 Sigourney Street, Hartford, CT 06106-5033.

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 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.