

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 # 606318

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2014, the Department of Social Services (the "Department") sent ██████████ (the "Applicant") a Notice of Action ("NOA") granting Long Term Care Medicaid benefits effective ██████████ 2014 and denying such benefits for the months of ██████████ through ██████████ of 2013.

On ██████████ 2014, ██████████, the Applicant's daughter and power of attorney ("POA"), (the "Appellant") requested an administrative hearing to contest the effective date of the Long Term Care Medicaid benefits as determined by the Department.

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, 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:

████████████████████, the Appellant, daughter and POA for the Applicant, ██████████
████████████████████, the Appellant's spouse
Steven Jacobson, Department's representative
Maureen Foley-Roy, Hearing Officer

The hearing record remained open for the submission of additional evidence. On ██████████
██████████ 2014, the record closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to grant Long Term Care benefits effective [REDACTED] 2014 was correct.

FINDINGS OF FACT

1. On [REDACTED] 2013, the Department received separate applications for Medicaid for Long Term Care for the Applicant and her spouse. (Exhibit 1: Application and Department's summary)
2. Both the Applicant and her spouse were living in a long term care facility at the time that she applied and the Appellant had paid the facility for the months up to and including [REDACTED] of 2013. (Appellant's testimony)
3. At the time the Appellant applied for Medicaid for Long Term care, the Applicant's only assets consisted of her home, a life insurance policy with a cash surrender value of \$3759.78, a joint checking account with her spouse and a vehicle. (Exhibit 1: Application)
4. In [REDACTED] of 2013, the Appellant's spouse had a life insurance policy with the John Hancock Company that had a cash value of \$8420.90 and one with the Prudential Company with a cash value of \$3418.35. (Appellant's testimony)
5. In late [REDACTED] or early [REDACTED], the Appellant cashed out the life insurance policies of the Applicant and her spouse and deposited the proceeds into the joint checking account. She attempted on many occasions to contact the Department for guidance on allowable uses of the funds. (Appellant's testimony)
6. After depositing the proceeds of the life insurance policies into the joint checking account, the balance in the account exceeded the \$1600 for the remainder of the year, until the Appellant spent down the funds in [REDACTED] of 2014. (Appellant's testimony)
7. On [REDACTED] 2013, the Applicant's spouse passed away. (Department's summary)
8. On [REDACTED], 2014, the Applicant's bank account balance was reduced to \$1047.10. (Exhibit 4: Citizen's Bank statement [REDACTED]/2013 to [REDACTED]/2014)
9. On [REDACTED] 2014, the Department granted Medicaid for Long Term Care for the Applicant effective [REDACTED] 2014. (Exhibit 2: Notice of Approval for Long Term Care Medicaid)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes, authorizes the Department of Social Services to administer the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Uniform Policy Manual (“UPM”) Section 4030 provides that the Department evaluates all types of assets available to the assistance unit when determining the unit's eligibility for benefits.
3. UPM § 4005.10 provides that the Medicaid asset limit for a needs group of one is \$1,600.00 per month.
4. UPM § 4030.30 C 1 and 2 provides that unless the total value of all life insurance policies owned by an individual does not exceed \$1500, the cash surrender value of life insurance policies owned by the individual is counted towards the asset limit.
5. UPM § 4005.05 (D) (1) provides that the Department compares the assistance unit's equity in counted assets with the program asset limit when determining whether the unit is eligible for benefits.
6. The Department was correct when it determined that the \$3759.78 cash surrender value of the Applicant's whole life insurance policy was counted towards the asset limit.
7. The Department was correct when it determined that the Applicant was ineligible for Medicaid for Long Term Care for the month of [REDACTED] of 2013 because the cash surrender value of her life insurance policy exceeded the allowable asset limit.
8. The Department was correct when it determined that the Applicant was ineligible for Medicaid for Long Term Care for the months of [REDACTED] 2013 through [REDACTED] of 2013 because the balance of her bank account exceeded the allowable asset limit of \$1600.
9. The Department was correct when it denied the Applicant's application for Medicaid for Long Term Care for the months of [REDACTED] through [REDACTED] 2013 because the Applicant's assets exceeded the limit.
10. UPM § 4005.15 provides that in the Medicaid program, 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.
11. The Department correctly determined that the Applicant's assets were reduced to below \$1600 in [REDACTED] of 2014.

12. The Department correctly granted Medicaid for Long Term Care effective [REDACTED] 2014.

DISCUSSION

The Department's responsibility is to review the information and determine whether eligibility for Medicaid exists at a certain point in time per the policy and regulations. The Appellant does not dispute the Department's figures of total assets. (Note that the Department could not provide all of the bank statements for the time period in question, however, the Appellant agreed with the figures that the Department provided in the hearing summary.) The undisputed fact is that the Applicant's total assets exceeded the allowable limit until the Appellant reduced those assets in [REDACTED] of 2014. The Appellant contends that she could have reduced those assets sooner if the Department had been available to offer guidance on the reduction of assets. There are no provisions or exceptions in policy that permit the Department to grant benefits in a month when there is no eligibility due to excess assets. The bottom line is that the Applicant's assets exceeded the allowable limit until [REDACTED] of 2014. The Department was correct when it determined that the Applicant was not eligible for Medicaid for Long Term care prior to [REDACTED] of 2014.

DECISION

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

Maureen Foley-Roy
Maureen Foley-Roy,
Hearing Officer

Pc: Cheryl Parsons, Operations Manager
DSS R.O. # 40, Norwich

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.