

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 # 606321

NOTICE OF DECISION

PARTY

██████████
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████████████████

PROCEDURAL BACKGROUND

On ██████████ 2014, the Department of Social Services (the "Department") denied ██████████ (the "Appellant") application for Long Term Care Medicaid benefits because his assets exceeded the Medicaid asset limit. The Department did not send a notice to the Appellant's Representative.

On ██████████ 2014, ██████████, the Appellant's daughter and power of attorney ("POA"), requested an administrative hearing to contest the Department's denial of the Appellant's Medicaid application.

On ██████████ 2014, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice scheduling the administrative hearing for ██████████ 2014.

On ██████████ 2014, the Appellant's representative requested that the hearing be rescheduled.

On ██████████ 2014, 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:

████████████████████, Appellant's daughter and POA

Liza Morias, Department's representative
Scott Zuckerman, Hearing Officer

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

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly denied the Appellant's Medicaid application due to excess assets.

FINDINGS OF FACT

1. In 2012, the Appellants daughter received her appointment as POA. (Appellant's POA testimony)
2. On [REDACTED] 2013, the Appellant was admitted to [REDACTED] Health Care Center ("the facility"). (Appellant's POA testimony)
3. On [REDACTED], 2013, the Appellant and his spouse applied separately for Long Term Care Medical assistance. (Hearing Summary, Exhibit 10: W-1LTC, Long-term Care/Waiver application)
4. The Appellant private paid the facility for the months of [REDACTED] and [REDACTED] 2013. (Appellant's testimony)
5. The Appellant had the following joint checking account during the application process: Citizens checking account # [REDACTED]. (Hearing Record)
6. The Appellant had the following life insurance policies throughout the application process: Prudential Life contract # [REDACTED] and Prudential Life Contract # [REDACTED]. (Ex. 4: Prudential cash surrender check statement, [REDACTED]/13 and Ex. 7: Prudential cash surrender check statement, [REDACTED]/13)
7. The Appellant's spouse had the following life insurance policy throughout the application process: John Hancock Life # [REDACTED]. (Ex. 5: Assets 1 screenprint and Ex. 7: John Hancock life cash surrender check, [REDACTED]/13)
8. In [REDACTED] 2013, the Appellant's life insurance policy # [REDACTED] was surrendered with a value of \$4566.25. The proceeds were deposited into the Citizens checking account. (Appellant's POA testimony, Ex. 7: Prudential check statement, [REDACTED]/13)
9. In [REDACTED] 2013, the Appellant's spouse John Hancock life insurance policy # [REDACTED] was surrendered with a value of \$3782.62. The proceeds were deposited into the Citizens checking account. (POA testimony, Ex. 7: John Hancock check statement, [REDACTED]/13)

10. In [REDACTED] 2013, the Appellant's POA purchased irrevocable burial contracts for the Appellant and his spouse from the proceeds of the two life insurance policies surrendered in [REDACTED] 2013. (Appellant's Testimony)
11. On [REDACTED] 2013, the Appellant's Prudential Life insurance policy # [REDACTED] was surrendered with a value of \$3418.35. The proceeds were deposited into the Citizens Bank account. (Appellant Testimony)
12. On [REDACTED], 2013, the Appellant passed away (Hearing Record)
13. The Appellant's and spouse assets for the months of [REDACTED] 2013 through [REDACTED] 2013 were the following:

Month	Citizens Acct # [REDACTED]	Prudential Life # [REDACTED]	Prudential Life # [REDACTED]	John Hancock # [REDACTED]
[REDACTED] 2013	\$10,738.20	\$0.00	\$3418.35	\$0.00
[REDACTED] 2013	\$26.57	\$0.00	\$3418.35	\$0.00
[REDACTED] 18, 2013	\$5737.25	\$0.00	\$0.00	\$0.00

(Exhibit: 3, Ex. 5, Ex. 7)

14. On [REDACTED] 2014, the POA reduced the bank account balance to under the \$1600.00 limit after making a payment to the nursing facility. (Appellant's testimony, Ex. 3: Citizens acct # [REDACTED] statement [REDACTED]/13 to [REDACTED]/14)
15. On [REDACTED] 2014, the Department denied the Appellant's Long Term Care Medicaid application as his assets were over the allowable limit. (Hearing summary and Exhibit 6: Case narrative, [REDACTED]/14)

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 § 4030.05(A) provides that bank accounts include the following. This list is not all inclusive.
 1. Savings account;
 2. Checking account;

3. Credit union account;
 4. Certificate of deposit;
 6. Patient account at long-term care facility;
 7. Children's school account;
 8. Trustee account;
 9. Custodial account.
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4. UPM § 4005.10 provides that the Medicaid asset limit for a needs group of one is \$1,600.00 per month.
 5. 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.
 6. 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.
 7. The Department correctly determined that the \$3418.35 cash surrender value of the Appellant's life insurance policy was counted towards the asset limit for [REDACTED] and [REDACTED] 2013.
 8. The Department correctly determined that the \$5,737.25 balance in the Appellant's checking account was counted toward the \$1600.00 asset limit in [REDACTED] 2013.
 9. The Department correctly determined that the Appellant's cash surrender value of his life insurance policy exceeded the allowable limit for the months of [REDACTED] and [REDACTED] of 2013.
 10. The Department correctly determined that the Appellant's checking account balance exceeded the allowable asset limit of \$1600 for the months of [REDACTED] and [REDACTED] of 2013.
 11. The Department correctly denied the Appellant's application for Long-term Care Medicaid Assistance for the months of [REDACTED] 2013 through [REDACTED] 2013 due to excess assets.

DISCUSSION

The Appellant's representative acknowledged that the assets exceeded the allowable limits for the months that she is seeking coverage for the Appellant. The POA stated that had she been able to reach a Department representative to discuss how to spend down the Appellant's assets, the Appellant may have been eligible. The POA did not surrender the Appellant's second Prudential policy until [REDACTED] 2013.

The proceeds remained in the checking account on [REDACTED] 2013, the date the Appellant passed away. The account remained over the asset limit until [REDACTED] 2014. There are no provisions in Department policy to allow the Department to grant benefits for any months when the assets are over the \$1600 limit. The Department was correct when it denied the Appellants Long Term Care Medicaid application.

DECISION

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



Scott Zuckerman
Hearing Officer

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, 55 Farmington Avenue, Hartford, CT 06105-3725.

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, 55 Farmington Avenue, Hartford, CT 06105-3725. 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.