

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 # 616719

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████, 2014, the Department of Social Services (the "Department") sent ██████████ ██████████ (the "Appellant") a Notice of Action ("NOA") denying her Long Term Care ("LTC") Medicaid benefits for the months of ██████████ 2014 through ██████████ 2014.

On ██████████ 2014, the Appellant's Power of Attorney requested an administrative hearing to contest the denial of 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:

██████████, Appellant's Power of Attorney  
██████████, Witness  
Elizabeth Clark, Department's Representative  
Shelley Starr, Hearing Officer

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

## STATEMENT OF THE ISSUE

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

### FINDINGS OF FACT

1. On [REDACTED] 2014, the Appellant was admitted to Masonic Healthcare Center of Wallingford, Connecticut. (Exhibit 20: Masonic Invoice and POA Testimony)
2. On [REDACTED] 2014, the Department received the Long-Term Care/Waiver Application ("LTC") requesting help with care in a facility. (Exhibit 19: LTC application [REDACTED]/14)
3. The Appellant's Power of Attorney ("POA") is her daughter, [REDACTED], who was appointed as POA on [REDACTED], 2005. (Exhibit 28: POA document)
4. The Power of Attorney retained the company ("Medicaid 4 You") to assist with the Medicaid application process. (Exhibit 19: LTC application [REDACTED]/14 and POA Testimony)
5. On [REDACTED] 2014, [REDACTED] Funeral Home of New Haven, CT faxed to the John Hancock Life Insurance Company, Change Of Ownership (Absolute Assignment) forms pertaining to the Appellant's three John Hancock Life Insurance Policies # [REDACTED], [REDACTED] and [REDACTED]. The forms were completed and signed by the Appellant's POA requesting a change in ownership assignment to [REDACTED] Funeral Home, Inc. (Exhibit 25: Change of Ownership Forms, [REDACTED]/14)
6. On [REDACTED], 2014, the Department sent the Appellant's POA and Medicaid 4 You, a W-1348LTC form advising that the combined John Hancock policies # [REDACTED], # [REDACTED], & # [REDACTED] exceed the Medicaid asset limit of \$1,600.00 and that one of the \$1,000.00 policies can be kept with the \$250.00 policy; however the other \$1,000.00 policy must be cashed in and that eligibility for Medicaid does not begin until the month in which total assets are below the \$1,600.00 asset limit. (Exhibit 4: W-1348LTC [REDACTED]/14 and Exhibit 10: Case Narrative)
7. On [REDACTED] 2014, the Appellant had the following assets:

| <u>Asset</u>                     | <u>Balance</u>         |
|----------------------------------|------------------------|
| TD account # [REDACTED]          | \$ 399.35              |
| TD account # [REDACTED]          | \$ 1,200.34            |
| John Hancock Policy # [REDACTED] | \$ 605.38 Cash Value   |
| John Hancock Policy # [REDACTED] | \$ 2,667.36 Cash Value |
| John Hancock Policy # [REDACTED] | \$ 2,282.67 Cash Value |
| Globe Life Policy # [REDACTED]   | \$ 4,762.23 Cash Value |

8. On [REDACTED] 2014, John Hancock Life Insurance Company sent a letter to the Appellant's POA advising that the request was received and that a certification form is required to confirm that the Power of Attorney is still in effect and that the enclosed forms must be signed, notarized and sent before transaction processing can be processed. (Exhibit 26: John Hancock Letter [REDACTED]/14)
9. On [REDACTED] 2014, the Appellant died.
10. On [REDACTED] 2014, the Appellant had the following assets:

| <u>Asset</u>                     | <u>Balance</u> |            |
|----------------------------------|----------------|------------|
| TD account # [REDACTED]          | \$ 1,420.07    |            |
| TD account # [REDACTED]          | \$ 1,200.34    |            |
| John Hancock Policy # [REDACTED] | \$ 605 .38     | Cash Value |
| John Hancock Policy [REDACTED]   | \$ 2,667.36    | Cash Value |
| John Hancock Policy # [REDACTED] | \$ 2,282.67    | Cash Value |
| Globe Life Policy # [REDACTED]   | \$ 4,762.23    | Cash Value |

11. On [REDACTED] 2014, the Department sent Medicaid 4 You, a second W-1348LTC referencing the three John Hancock Policies and Globe Life policy, advising that one \$1,000.00 policy must be cashed out and used for client needs and to provide surrender letter and proof of deposit and how money was spent. In addition, provide verification if Globe Life policy turned over to disabled son as all assets must be reduced to under \$1,600.00 to be asset eligible. (Exhibit 4: W-1348LTC, [REDACTED]/14)
12. On [REDACTED] 2014, the Department reviewed documents and determined that the Appellant was over assets. (Exhibit 10: Case Narrative and Department's Testimony)
13. There is no evidence in the hearing record that the Appellant's POA request to change ownership of the Appellant's three John Hancock life insurance policies # [REDACTED], # [REDACTED] and # [REDACTED] was processed prior to the Appellant's death. (Hearing Record)
14. There is no evidence in the hearing record that the Appellant's Globe Life Insurance Policy [REDACTED] ownership was transferred prior to the Appellant's death. (Hearing Record)
15. On [REDACTED] 2014, the Department sent the Appellant's POA a notice denying her application for LTC Medicaid due to excess assets for the months of [REDACTED] 2014 through [REDACTED] 2014 due to the value of your assets is more than the amount we allow you to have and the person listed has died. (Exhibit 18: Notice of Action, [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. Connecticut General Statutes 17b-261(c) provides in part that for the purposes of determining eligibility for the Medicaid program, an available asset is one that is actually available to the applicant or one that the applicant has the legal right, authority or power to obtain.
4. 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.

**The Department correctly considered the Appellant’s bank accounts and cash value of life insurance policies as available assets when determining Medicaid eligibility.**

5. 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.

**The Department correctly included the Appellant’s two bank accounts in the calculation of the Appellant’s assets.**

6. UPM § 4030.05 (A) provides that the part of a checking account to be considered as a counted asset during a given month is calculated by subtracting the actual amount of income the assistance unit deposits into the account that month from the highest balance in the account for that month.
7. UPM § 4005.10 (A)(2)(a) provides that the asset limit for Medicaid for a needs group of one is \$1,600.00.

**The Department correctly determined the Appellant’s household as a need group of one and that the asset limit is \$1,600.00.**

8. UPM § 4030.30 discusses the treatment of life insurance policies as assets.
9. UPM § 4030.30 (A) provides that for all programs: 1. The owner of a life insurance policy is the insured unless otherwise noted on the policy, or if the insurance company confirms that someone else, and not the insured, can cash in the policy;

and 2. Policies such as term insurance policies having no cash surrender value are excluded assets.

10. UPM § 4030.30 (C) provides that for the AABD and MAABD programs: 1. If the total face value of all life insurance policies owned by the individual does not exceed \$1,500.00, the cash surrender value of such policies is excluded. In computing the face value of life insurance, the Department does not count insurance such as term insurance which has no cash surrender value; and 2. Except as provided above, the cash surrender value of life insurance policies owned by the individual is counted toward the asset limit.

**The Department correctly determined the value of the Appellant's John Hancock policy # [REDACTED], [REDACTED], # [REDACTED] and Globe Life policy # [REDACTED] exceeded the Medicaid asset limit of \$1,600.00.**

11. UPM § 4005.15 provides that in the Medicaid MAABD 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.

**The Department correctly counted the Appellant's assets at TD Bank, John Hancock Life Insurance and Globe Life Insurance.**

**The Department correctly determined that the Appellant's assets exceeded the program asset limit of \$1,600.00.**

**The Department correctly determined that the Appellant was ineligible for Medicaid for the period of [REDACTED] 2014 and [REDACTED] 2014 (Appellant's month of passing).**

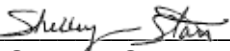
**The Department correctly denied the Appellant's [REDACTED] 27, 2014, Long Term Care Medicaid application.**

### **DISCUSSION**

Based on the evidence and testimony presented, the Appellant's assets were not reduced to below the \$1,600.00 asset limit prior to the Appellant's death. While it is clear that the Appellant's Power of Attorney started the reduction of assets process, between the Appellant's two bank accounts and four life insurance policies, the process was not completed and the Appellant's available and accessible assets remained over the \$1,600.00 Medicaid asset limit.

**DECISION**

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

  
\_\_\_\_\_  
Shelley Starr  
Hearing Officer

cc: Peter Bucknall, Operations Manager, DSS RO # 20, New Haven

### **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.

