STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105

[redacted], 2014
Signature Confirmation

Client ID # [redacted]
Request # 617484

NOTICE OF DECISION

PARTY

[redacted]
[redacted]
[redacted]
[redacted]

PROCEDURAL BACKGROUND

On [redacted] 2014, the Department of Social Services (the "Department") sent Power of Attorney [redacted] (the "Appellant") a Notice of Action ("NOA") denying benefits to [redacted] (the "Applicant") under the Medicaid for Long Term Care 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], Appellant and Power of Attorney for the Applicant, [redacted] [redacted]
[redacted], Appellant's Representative
Christine Morin, Department's Representative
Valerie Maignan, Department's Observer
Shelley Starr, Hearing Officer

The hearing officer held the record open for the submission of additional evidence. On [redacted] 2014, the record closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Applicant's application for medical assistance for failing to provide information was correct.

FINDINGS OF FACT

1. On [redacted] 2009, [redacted] (the "Applicant") appointed her daughter, [redacted] as Power of Attorney ("POA") and lived with her prior to her admission to a nursing facility. (Exhibit 2: Power of Attorney Document and Hearing Record)

2. On [redacted] 2013, [redacted] ("the Applicant") was admitted to Birmingham Health Center of Derby, CT (Appellant's Testimony and Hearing Record)

3. On [redacted] 2013, the Department received the W-1LTC application that the("POA") in conjunction with the facility filed. (Exhibit 9: W-1 LTC and Appellant's Exhibit B: Brief)

4. On [redacted] 2013, the Department sent a W-1348 Verification We Need List with a due date of [redacted] 2013, to the POA requesting admit date to be entered in Ascend by Birmingham Health, copy of both pension stubs or award letters showing gross/net amounts, Webster bank statements, AARP #[redacted] statements for [redacted]/08, [redacted]/09, [redacted]/10 and [redacted]/11 to current, copy of burial contract, and copy of Anthem Medical premium. The notice advised assets must be reduced to under $1600.00 to be asset eligible. (Exhibit 1: W-1348 [redacted]/13)

5. On [redacted] [redacted] 2013, the Department sent a second W-1348 Verification We Need list with a due date of [redacted] 2014, to the POA requesting admit date be entered in Ascend by Birmingham Health, copy of both pension stubs or award letters showing gross/net amounts, Copy of AARP #[redacted] for [redacted]08, [redacted]09,[redacted]/10 and [redacted]/11 to current, and indicating that assets must be reduced to under $1,600.00 to be asset eligible. (Exhibit 2: W1348 [redacted]/14)

6. On [redacted] 2014, the Applicant, died. (Hearing Record)

7. On [redacted] 2014, the Department reviewed all provided documents submitted by the [redacted] 2014 due date. The Department was provided with Metlife Dividend Stock Statements and was not aware of the Metlife Stock until the [redacted], 2014 date as the Metlife Stock was not listed on the W-1LTC application. (Exhibit 6: Case Narrative and Exhibit 11: Metlife Dividend Statements 2011, 2012, & 2013)

8. On [redacted] 2014, the Department sent a third W-1348 Verification We Need form with a due date of [redacted] 2014 to the POA and the Nursing Home bookkeeper, requesting proof of gross benefit from American General and any deductions, current pay stub, letter from company or last year's 1099 if pension amount never changes, according to our legal department (OLCRAH), your AARP deferred annuity is considered an available assets. In order to qualify for assistance your assets must be below asset limit of $1,600.00 and included on list was a listing of options for disposition of the funds, You provided a 1099 div-statement for years 2011, 2012 & 2013 from Metlife Inc. to verify amount of shares held. This amount is over the asset limit. In order to qualify for assistance, your assets must be below asset limit of $1,600.00. The same options are available to you as previously stated above in annuities section. The W-1348 included an additional page of Notes from your worker. (Exhibit 3: W-1348 [redacted]/14)

9. On [redacted] 2014, the Department sent a fourth W-1348 Verification We Need form with a due date of [redacted] 2014, advising that AARP deferred annuity is considered an available assets with options listed for the disposition of the funds, regarding stocks, you provided 1099 div. statements for years 2011, 2012, and 2013 from Metlife to verify amount of shares held. This amount is over the asset limit. In order to qualify for assistance your assets must be below the asset limit of $1,600.00. The same options are available to you as previously stated above in the annuities section. The W-1348 included an additional page of Notes from your worker. (Exhibit 4: W-1348 [redacted] 14)

10. On [redacted], 2014, the Department reviewed the file and determined no correspondence or information was provided based on the [redacted] 2014 W-1348 request for information. (Department's Testimony and Hearing Record)

11. The Department was not provided with proof that the Metlife Stock and the AARP deferred annuity stock was reduced to comply with the asset limits. (Department Testimony and Hearing Record)

12. On [redacted] 2014, the Department denied the application for Medicaid for Long Term Care because it did not have the required information to determine eligibility and it had not received any information or response to

the Verification We Need list that it had issued on [redacted] 2014. (Exhibit 8: Notice of Denial [redacted] 14)

13. On [redacted] 2014, the Appellant's Power of Attorney, signed the PC 212 Affidavit in Lieu of Will/Administration document providing the Appellant's asset inventory at the time of her death. (Exhibit 20: PC-212, signed [redacted]/14)

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. Section 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 or to have applied for the applicant's general or medical support.

   UPM § 4005.05 (A) 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.

   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 have it applied for, his or her general or medical support.

   UPM § 4005.05 (D) provides that an assistance unit is not eligible for benefits under a particular program if the units equity in counted assets exceeds the asset limit for the particular program.

   The Department, once the asset was disclosed, correctly determined that the Metlife Stock was a countable asset and that the equity may be exceeding the asset limit for the program.

3. Uniform Policy Manual ("UPM") § 1010.05 (A) (1) provides that the assistance unit must supply the Department in an accurate and timely manner as defined by the Department, all pertinent information and verification which the Department requires to determine eligibility and calculate the amount of benefits.

4. UPM § 1015.05 C states that the Department must tell the assistance unit what the unit has to do to establish eligibility when the Department does not have sufficient information to make an eligibility determination.

The Department was correct when it issued the W-1348 Verification We Need form(s) with a listing of outstanding information needed to determine eligibility.

5. UPM § 1505.40 B 5 provides for delays in application processing due to insufficient verification in the AFDC, AABD and MA programs.

6. UPM § 1505.40 B 5 a (1) and (2) provide that regardless of the standard of promptness, no eligibility determination is made when there is insufficient verification to determine eligibility when the Department has requested verification and at least one item of verification has been submitted by the assistance unit within a time period designated by the Department but more is needed.

7. UPM § 1505.40 B 5 b provides that an additional 10 day extension for submitting verification shall be granted, as long as after each subsequent request for verification at least one item of verification is submitted by the assistance unit within each extension period.

   The Department was correct when it issued four subsequent W-1348 Verification We Need forms with extended deadlines upon receipt of any of the requested items prior to the deadline.

   The Department was correct when it did not provide a fifth 10 day extension as the Department did not receive at least one item of verification from the fourth W-1348 Verification We Need form.

8. UPM § 1505.35 C1 c(2) provides that a standard of promptness is established as the maximum time period for processing applications. For applicants for Medical Assistance on the basis of age; that standard is forty-five calendar days.

9. UPM § 1505.40 B1 (b) (1) provides that if the applicant failed to complete the application without good cause, cases are denied between the thirtieth day and the last day of the appropriate standard for processing the application.

   The Department was correct when it denied the [redacted] 2013 application on [redacted] 2014 because it did not receive even one item of verification in response to the 4th request for information that it had issued on [redacted] 2014.

DISCUSSION

The Department issued four W-1348 Verification We Need forms to the Appellant's Power of Attorney. The Department Representative's testimony along with the evidence provides credible evidence that the Appellant's Power of Attorney was notified on the W-1348 Verification We Need forms about the $1,600.00 asset limit and the items that the Department required to determine eligibility. Upon receipt of the fourth W-1348 the Power of Attorney failed to respond by sending in any of the requested verification or by communicating with the Department.

The Appellant applied for Medicaid assistance on [redacted] 2013 and passed on [redacted] 2014. The sequence of events occurred in a short time period. While it is clear that the Power of Attorney began the liquidation process, she did not submit any information listed on the fourth W-1348 request or contact the Department for any assistance. In addition, the Metlife stock was not disclosed to the Department until the submission of information due with the [redacted] 2014 deadline.

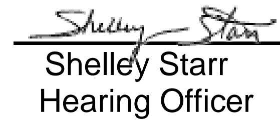
Once the Department was aware of the additional stock, the Power of Attorney was informed what was needed regarding the Metlife Stock and all available assets as indicated on the third W-1348 request. Program eligibility would end on the day of the Appellant's death. Based on the provided testimony and the PC-212 Affidavit in Lieu of Probate of Will provided inventory, the Appellant had accessible assets totaling more than the $1,600.00 asset limit on her date of death.

The Appellant's Attorney argued that the Power of Attorney had good cause for not providing the requested information. I find that good cause did not exist and the Appellant's Power of Attorney did not fulfill her responsibilities for the application process.

The end result is that the Department fulfilled its responsibility to inform the parties of the information needed to establish eligibility and correctly denied the application when there was no response to the fourth W-1348.

DECISION

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



Shelley Starr
Hearing Officer

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

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 06105-9902.

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. 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.