

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

██████████ 2014

Signature Confirmation Mail

CL ID # ██████████
Request ID#618411

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████ 2014, the Department issued a Notice of Action (“NOA”) to ██████████ (“the Appellant”) advising that it had denied her long-term care Medicaid application.

On ██████████ 2014, the Appellant requested an administrative hearing to contest the Department’s denial of her application for long-term care Medicaid.

On ██████████ 2014, the Office of Legal Counsel, Regulations, and Administrative Hearings, (“OLCRAH”) issued a notice scheduling an administrative hearing for ██████████ 2014.

On ██████████ 2014, in accordance with Connecticut General Statutes § 17b-60, 17b-61 and 4-176e to 4-189, inclusive, OLCRAH held an administrative hearing.

The following individuals were present at the hearing:

██, Appellant’s Son/Authorized Representative
██, Appellant’s Daughter
Natosha Douglas, Department’s Representative
Pamela J. Gonzalez, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether the Department correctly denied the Appellant's long-term care Medicaid application.

FINDINGS OF FACT

1. The Appellant applied for long-term care Medicaid on [REDACTED], 2013. (Special Eligibility Determination Document Form W1F – Department's exhibit 1)
2. At the time of her application for long-term care Medicaid, the Appellant's son was named as her Authorized Representative for Medicaid eligibility purposes. (Department's exhibit 1)
3. On [REDACTED] 2013, the Department issued a We Need Verification from You Form or Form W-1348LTC to the Appellant asking for pertinent items of verification for application processing purposes. The requested verifications were due to be returned to the Department by [REDACTED] 2013. (Form W-1348 – Department's exhibit 2)
4. On the following dates additional requests for items of verification were made via Form W-1348LTCs: [REDACTED] 2013, [REDACTED], 2013, [REDACTED], 2013, and [REDACTED] 2014. The requested information was ultimately due to be returned to the Department by [REDACTED] 2014. (W-1348LTC Forms – Department's exhibit 2)
5. On each of its requests for information, the Department asked for a copy of the listing agreement for the Florida property as it had to be listed for sale to be eligible for Medicaid. (Department's exhibit 2)
6. On [REDACTED] 2014, the Appellant's level of care was approved effective [REDACTED] [REDACTED] 2013. (Ascend Connecticut Application approval – Department's exhibit 5)
7. On [REDACTED] 2014, a W-1348LTC was issued to the Appellant asking for items of verification. Specifically, the Department asked that the Appellant provide bank statements and verification that property (in Florida) had been placed on the market for sale. The requested items of verification were due to be received by the Department by [REDACTED] 2014. (Form W-1348LTC- Department's exhibit 2)
8. The Appellant expired on [REDACTED], 2014. (Certificate of Death – Department's exhibit 3)
9. The Department did not receive the outstanding items of verification for Medicaid eligibility purposes by the deadline of [REDACTED], 2014. (Department's representative's testimony, Hearing record)

10. On [REDACTED] 2014, the Department denied the Appellant's Medicaid application for long-term care. (Notice of Denial – Department's exhibit 6)
11. On [REDACTED] 2014, the Appellant's authorized representative brought the requested items of verification to the Department. (Department's representative's testimony, Hearing record)
12. The property owned by the Appellant located at [REDACTED] [REDACTED] was listed for sale as of [REDACTED] 2014 with a selling price of \$70,000.00. (Exclusive Right of Sale Listing Agreement – Department's exhibit 4)
13. The Appellant's application was rescreened effective [REDACTED] 2013. (Notice dated [REDACTED] 2014 – Department's exhibit 6)
14. The Department considered the value of the Appellant's property in Florida of \$70,000.00 to be a countable asset for Medicaid eligibility purposes. (Department's representative's testimony, Hearing record)
15. On [REDACTED] 2014, the Department denied the Appellant's application for Medicaid as the value of her assets was more than the amount allowed and because she died in [REDACTED] 2014. (Department's exhibit 6)

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") § 4030 provides that the Department evaluates all types of assets available to the assistance unit when determining the unit's eligibility for benefits.
3. Section 17b-80(a) of the Connecticut General Statutes states that the Department shall grant aid only if the applicant is eligible for that aid.
4. UPM § 4000.01 provides that an available asset is cash or any item of value which is actually available to the individual or which the individual has the legal right, authority or power to obtain, or to have applied for, his or her general or medical support.
5. UPM § 4005.05(B)(1) states, 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 § 4030.65(D)(1)(a) and (b) provide that property previously used as a primary residence becomes non-home property when the individual enters a long-term-care facility and: (1) no relative of acceptable relationship is lawfully residing in the home; and (2) the individual cannot reasonably be expected to return to the home. (Cross Reference: 7510)
8. The Appellant's property was not put on the market prior to her death in [REDACTED] 2014.
9. UPM § 4015.05(A) provides that subject to the conditions described in this section, equity in an asset which is inaccessible to the assistance unit is not counted as long as the asset remains inaccessible.
10. UPM § 4015.05(B) provides that the burden is on the assistance unit to demonstrate that an asset is inaccessible. For all programs except Food Stamps, in order for an asset to be considered inaccessible, the assistance unit must cooperate with the Department as directed, in attempting to gain access to the asset.
11. From [REDACTED] 2013 – [REDACTED] 2014, the Appellant had the legal right, authority or power to obtain the assets, or to have them applied for her general or medical support.
12. The Appellant has not demonstrated that her assets were inaccessible from [REDACTED] 2013 – [REDACTED] 2014, inclusive.
13. The Appellant's property located at [REDACTED] is an available asset.
14. The Department correctly considered the value of the Appellant's Florida property of \$70,000.00 as an available and countable asset for Medicaid eligibility purposes.
15. UPM § 4005.10(A)(2)(a) provides that the asset limit for the Medicaid program for a needs group of one is \$1,600.00.
16. The value of the Appellant's counted assets exceeded the Medicaid asset limit of \$1,600.00 for the months of [REDACTED] 2013 – [REDACTED] 2014.

DISCUSSION

After reviewing the evidence and testimony presented, I find that the Department correctly denied the Appellant's application for Medicaid.

The Department has shown that it clearly delineated the requirements for eligibility and asked several times that verification of the property listing be provided.

The Appellant's representatives explained that they were advised by an attorney not to put the house on the market in case their mother doesn't qualify for Medicaid. The Appellant's daughter stated that her mother didn't want anyone to have her house. For these reasons, despite the Department's repeated notices, the Appellant's children did not timely put the house up for sale. It wasn't until after their mother had passed that the property was placed on the market.

In accordance with regulations, the Department considered the value of the Appellant's property to be a countable asset for Medicaid eligibility purposes and properly denied her [REDACTED] 2013 application.

DECISION

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

Pamela J. Gonzalez

Pamela J. Gonzalez
Hearing Officer

Copy: Poonam Sharma, Operations Manager, R.O. #30, Bridgeport

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. 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.