

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 # 619662

**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 ██████████ 2013 through ██████████ 2014.

On ██████████, 2014, the Appellant 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 Daughter and Power of Attorney ("POA")  
Doris Hare, Department's Representative  
Thomas Monahan, Hearing Officer

**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] 2013, the Appellant applied for Long Term Care Medicaid. (Exhibit 6: Case Narrative)
2. On [REDACTED] 2013, the Appellant was admitted to Waters Edge Center for Health and Rehabilitation. (POA's testimony)
3. On [REDACTED] 2014, the Appellant was admitted to Cocomo nursing home. (POA's testimony)
4. On [REDACTED] 2013, and [REDACTED] 2014, the Department sent the Appellant's POA a request for verification of the Appellant's assets at Liberty Bank and that her assets must be reduced under \$1,600.00 to be eligible for Medicaid. (Ex. 2: W-1348LTC We Need Verification From You form, [REDACTED]/13)
5. On [REDACTED] 2014, the Department sent the Appellant's POA a request for verification that the Appellant's assets have been reduced below the asset limit of \$1,600.00. The Appellants bank account balances for her two accounts at Liberty Bank were \$6372.02 (joint account) and \$1,600.12 in [REDACTED] of 2013. (Ex. 2: W-1348LTC We Need Verification From You form, [REDACTED]/14)
6. The Appellant removed her name from the joint account prior to [REDACTED] 2014. (Ex. 3: Asset calculation worksheet)
7. On [REDACTED] 2014, the Department sent the Appellant's POA a request for verification that the Appellant's assets have been reduced below the asset limit of \$1,600.00. The Department requested bank statements for [REDACTED] 2014 to the current period for the Appellant's one remaining Liberty Bank account. (Ex. 2: W-1348LTC We Need Verification From You form, [REDACTED]/14)
8. On [REDACTED] 2014, the Department sent the Appellant's POA a request for verification that the Appellant's assets have been reduced below the asset limit of \$1,600.00. The Department requested Liberty Bank statements from [REDACTED] 2014 through the current period. (Ex. 2: W-1348LTC We Need Verification From You form, [REDACTED]/14)
9. The Appellant lived in the community prior to admittance to Waters Edge on [REDACTED] 2013. (POA's testimony)
10. On [REDACTED], 2014, the balance of the Appellant's Liberty Bank account was \$1,600.19. (Ex. 7: Bank statements)
11. On [REDACTED] 2014, the balance of the Appellant's Liberty Bank account was \$1,623.37. (Ex. 7: Bank statements)

12. On [REDACTED] 2014, the balance of the Appellant's Liberty Bank account was \$2,446.37. (Ex. 7: Bank statements)
13. On [REDACTED] 2014, the balance of the Appellant's Liberty Bank account was \$1,619.47. (Ex. 7: Bank statements)
14. On [REDACTED], 2014, the balance of the Appellant's Liberty Bank account was \$1,602.55. (Appellant's Exhibit A: Bank statement, Ex. 6: Case narrative)
15. On [REDACTED] 2014, the Department sent the Appellant and her POA a notice denying her application for LTC Medicaid due to excess assets for the months of [REDACTED] 2013 through [REDACTED] 2013. (Ex. 5: Denial notice)
16. On [REDACTED] 2014, the Department granted LTC Medicaid effective [REDACTED] 2014.

### **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 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. If the terms of a trust provide for the support of an applicant, the refusal of a trustee to make a distribution from the trust does not render the trust an unavailable asset. Notwithstanding the provisions of this subsection, the availability of funds in a trust or similar instrument funded in whole or in part by the applicant or the applicant's spouse shall be determined pursuant to the Omnibus Budget Reconciliation Act of 1993, 42 USC 1396p
4. Regulation provides that Bank Accounts include the following; savings account, checking account, credit union account, certificate of deposit, patient account at long-term care facility, children's school account, trustee account, custodial account. UPM 4030.05(A)

5. Regulation 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 (A)
6. Regulation 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. UPM § 4005.05 (B)(2)
7. Regulation provides that an assistance unit is not eligible for benefits under a particular program if the unit's equity in counted assets exceeds the asset limit for the particular program. UPM § 4005.05 (D)
8. Regulation provides that the Medicaid asset limit for a needs group of one in the Medical Assistance for Aged, Blind or Disabled ("MAABD") program is \$1,600.00. UPM § 4005.10
9. Regulation 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. UPM § 4005.15
10. The Department correctly counted the Appellant's assets at Liberty Bank.
11. The Department correctly determined that the Appellant's assets exceeded the asset limit from [REDACTED] 2013 through [REDACTED] 2014.
12. The Department correctly determined that the Appellant was ineligible for Medicaid for the period of [REDACTED] 2013 through [REDACTED] 2014.
13. The Department correctly denied the Appellant's [REDACTED], 2013, LTC Medicaid application.

### **DISCUSSION**

The Appellant reapplied for assistance and was granted LTC medical back dated to [REDACTED] 2014 as she verified a reduction in her assets to within program limits. The Department's denial for the months of [REDACTED] 2013 through [REDACTED] 2014 is correct as the Appellant's assets exceeded the \$1,600.00 dollar limit in those months.

### **DECISION**

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

*Thomas Monahan*

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Thomas Monahan  
Hearing Officer

Pc: Cathy Robinson-Patton, Operations Manager, Middletown Regional Office

### **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.