

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 # 620412

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2014, the Department of Social Services (the "Department") granted Medicaid Long Term Care coverage for ██████████ ("the Appellant") effective ██████████ 2014, and denied coverage for the months of ██████████ 2013 through ██████████ of 2014.

On ██████████ 2014, the Appellant requested an administrative hearing to contest the Department's decision to deny such benefits. This request was forwarded to the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") by Attorney ██████████.

On ██████████ 2014, OLCRAH issued a Notice scheduling the administrative hearing for ██████████ 2014.

On ██████████, 2014, the Appellant's Attorney requested a rescheduled hearing date and this request was granted.

On ██████████ 2014, OLCRAH issued a Notice rescheduling 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 Spouse

██████████, Appellant's Representative  
██████████ Witness, Appellant's Daughter  
██████████ Witness, Appellant's Son  
Enkelejda Trifoni, Department's Representative  
Andrea Boardman, Hearing Officer

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether the Department's decision to deny Medicaid Long Term Care assistance for the months of ██████████ of 2013 through ██████████ of 2014, to the Appellant was correct.

### **FINDINGS OF FACT**

1. On ██████████ 2013, the Appellant was admitted to Wolcott View Manor. (Hearing Record)
2. On ██████████ 2013, the Appellant applied for long term Medical Assistance. The application lists his spouse as his authorized representative for purposes of this application. (Exhibit 1: W-1 LTC Application and Department's Testimony)
3. On ██████████ 2014, the Department sent a "Verification We Need" W-1348, document to the Appellant's spouse requesting additional information regarding reported assets. (Exhibit 3: Department's Case Narrative Screen and Department's Testimony)
4. On ██████████ 2013, the Department received medical identification cards for the Appellant from the facility. (Exhibit 3 and Department's Testimony)
5. On ██████████ 2013, the Department sent a W-1348 LTC Addendum document to the Appellant's spouse requesting additional documentation regarding private medical assistance and to provide statements for all accounts including closed accounts during the last five years. This document also requests verification of shelter expenses, copies of requests, bills or receipts for all transactions of \$5,000.00 or more, statements for ██████████ of 2008, ██████████ 2009, and ██████████ 2010 and detailed monthly statements from ██████████ 2011 to the present. This document indicates that there is no eligibility for Title XIX in any month in which total assets exceed \$1,600.00. (Exhibit 2: W-1348 LTC Addendum documents dated ██████████ 2013, ██████████ 2013, ██████████ 2013, ██████████, 2014, ██████████, 2014, ██████████, 2014, ██████████ 2014, ██████████ 2014 and ██████████, 2014, two e-mail messages dated ██████████ 2014 and ██████████ 2014 and Department's Testimony)

6. On [REDACTED], 2013, the Department received some of the requested information. (Department's Testimony)
7. On [REDACTED] 2013, the Department sent a W-1348 LTC document requesting proof of the private medical insurance premium and how often it is paid and requesting the documentation regarding assets from the Department's [REDACTED] 2013 request. This document indicates that there is no Title XIX eligibility for any month which total assets exceed \$1,600.00. (Exhibit 2)
8. On [REDACTED] 2013, the Appellant's spouse and authorized representative requested an extension in providing required documentation to the Department. (Department's Testimony)
9. On [REDACTED] 2013, the Department received five years of statements from Wachovia Bank, but only one statement from Bank of America was provided. Retirement income from the Appellant's spouse was provided. (Department's Testimony)
10. On [REDACTED] 2013, the Department sent a W-1348 LTC document requesting statements for all accounts including those under the spouse's name from [REDACTED] of 2008, [REDACTED] 2009, [REDACTED] 2010, and detailed monthly statements from [REDACTED] 2011 to the present or closing date. A letter from Met Life verifying the face value and cash value, proof of gross pension for both the Appellant and the spouse was also requested. (Exhibit 2)
11. On [REDACTED] 2014, additional bank statements were provided. A new bank account and a new money market account with MetLife was discovered by the Department. (Department's Testimony)
12. The MetLife money market account was not listed on the application. (Exhibit 1 and Department's Testimony)
13. On [REDACTED] 2014, the Department attempted to obtain necessary MetLife account information by phone, but was unsuccessful. (Department Representative's Testimony)
14. On [REDACTED] 2014, the Department sent another W-1348 LTC document to the Appellant's spouse. This document requests information for two Bank of America accounts and for a MetLife money market account. (Exhibit 2)
15. On [REDACTED] 2014, the Appellant's spouse requested an extension in providing requested documentation to the Department. The request was granted. The Appellant's spouse reported that the MetLife account was closed and a new account with TD Bank was opened with the proceeds. The Department's Representative attempted to call MetLife to obtain the necessary

information, but was not given permission to do so by the Appellant's spouse. (Exhibit 3 and Department's Testimony)

16. On [REDACTED] 2014 the Department issued a W-1348 LTC document to the Appellant's spouse. This document requests documentation of five different accounts, including the MetLife and the TD Bank accounts. (Exhibit 2)

17. On [REDACTED] 2014, the Appellant's spouse came to the DSS Regional Office and provided a few bank verifications. At this time the Department placed a call to MetLife and was informed that the annuity was surrendered in full on [REDACTED] 2013 and the proceeds totaled \$25,712.66. (Exhibit 3)

18. On [REDACTED] 2014, during the phone call with MetLife, the Department determined that the balances were as follows: [REDACTED] 2008, \$25,564.79, [REDACTED] 2009, \$25,564.79, [REDACTED] 2010, \$26,773.62, [REDACTED] 2011, \$26,372.53 and [REDACTED] 2012, \$25,974.02. (Exhibit 3)

19. On [REDACTED] 2014, the Department issued a W-1348 LTC document to the Appellant's spouse requesting verification of the TD Bank account, two Bank of America accounts and verification of transactions of \$5,000.00 or more. (Exhibit 2)

20. On [REDACTED] 2014, the Appellant's spouse came to the DSS Regional Office and provided requested bank statements. The Bank of America statements reflected another investment account with a balance of \$8,180.75. The Department issued another "Verification We Need" Addendum requesting statements for this account and for a MetLife Brokerage Retirement account. This information was due back to the Department on [REDACTED] 2014. (Exhibits 2, 3 and Hearing Summary)

21. At the [REDACTED] 2014 office visit, the Appellant's spouse provided verification of the new TD Bank account, which was opened with the proceeds from the MetLife account. The balance as of [REDACTED] 2014 was verified at \$25,048.00. The Department verbally advised the Appellant's spouse to reduce the assets. (Department's Testimony)

22. On [REDACTED] 2014, the Department issued an Assessment of Spousal Assets, Notification of Results allowing the community spouse assets of \$23,448.00. (Exhibit 4: W-1SAN dated [REDACTED] 2014. The community spouse did not request a hearing regarding this notice. (Exhibit 4 and Attorney's statement)

23. On [REDACTED] 2014, the Department issued a W-1348 LTC document requesting statements from [REDACTED] 2013 for a Bank of America account and statements from the MetLife Brokerage Retirement account, for [REDACTED] 2008, [REDACTED] 2009 and [REDACTED] 2010, and statements from [REDACTED] 2011

to the present date. This document also requests that assets be reduced to the allowable assets for Title XIX and refers to the enclosed W1SAN. (Exhibit 2)

24. On [REDACTED] 2014, the Appellant's spouse provided statements from TD Bank, which was opened on [REDACTED], 2013 from the proceeds of the MetLife account. The most current balance as of [REDACTED] 2014 was \$25,714.28. The total allowable assets for the community spouse listed on the Assessment of Spousal Assets, Notification of Results is \$25,048.00. The Department advised the Appellant's spouse to spend down the assets. (Department's Testimony)

25. On [REDACTED] 2014, the Appellant's spouse requested an extension in providing verification of reduced assets. (Hearing Summary)

26. On [REDACTED] 2014, the Department reviewed the statements for one bank account and issued a W-1348 LTC document requesting statements for two Bank of America accounts and a third account MetLife Brokerage Retirement account through the Bank of America. The deadline date for providing the requested documentation was by [REDACTED] 2014. (Exhibit 2)

27. On [REDACTED] 2014, all of the requested documentation was provided and the Department determined that the Appellant was asset eligible effective [REDACTED] 2014. The Department established a diversion of income to the community spouse. (Exhibit 3 and Hearing Summary)

28. On [REDACTED] 2013, the Appellant's assets totaled \$30,059.81. (Exhibit: 5: Spousal Assessment Worksheet and Attorney's Statement)

29. On [REDACTED], 2013, the Appellant's assets totaled \$30,235.17. (Exhibit 5 and Attorney's Statement)

30. On [REDACTED], 2013, the Appellant's assets totaled \$29,268.63. (Exhibit 5 and Attorney's Statement)

31. On [REDACTED] 2014, the Appellant's assets totaled \$30,788.41. (Exhibit 5 and Attorney's Statement)

32. On [REDACTED] 2014, the Appellant's spouse issued a check from TD Bank checking ending in [REDACTED], in the amount of \$5,000.00 to Wolcott View Manor. (Exhibit 11: TD Bank statements running from [REDACTED], 2013 through [REDACTED] 2014 and check dated [REDACTED] 2014 in the amount of \$5,000.00 to Wolcott View Manor)

33. On [REDACTED], 2014, two checks were posted on TD checking ending in [REDACTED], each in the amount of \$8,238.00 for a total of \$16,476.00 to cover two pre-paid funeral contracts for the Appellant and the Community Spouse. (Exhibit 11)

34. On [REDACTED] 2014, the couple's total assets totaled \$9,313.39. (Exhibits 5 and 11)

35. On [REDACTED] 2014, the Department granted long-term care Medicaid to the Appellant effective [REDACTED] 2014. This is the date that the couple was asset eligible as the community spouse's assets fell within the maximum amount of assets of \$23,448.00 allowed for her in the Department's assessment of spousal assets. The Appellant's assets also fell within the \$1,600 Medicaid asset limit. The Department also established an income diversion for the community spouse in the amount of \$1,689.42. (Exhibit 3 and Department's Testimony)

36. On [REDACTED] 2014, the Appellant passed away. (Hearing Record)

### **CONCLUSIONS OF LAW**

1. Uniform Policy Manual UPM 1500.01 defines Institutionalized Spouse as: An institutionalized spouse is a spouse who resides in a medical facility or long term care facility, who receives home and community based services (CBS) under a Medicaid waiver, and who is legally married to someone who does not reside in such facilities or who does not receive such services.
2. UPM 1500.01 defines Community Spouse as: A Community Spouse is an individual who resides in the community, who does not receive home and community based services under a Medicaid waiver, who is married to an individual who resides in a medical facility or long term care facility or who received home and community based services (CBS) under a Medicaid waiver.
3. UPM 1500.01 defines MCCA Spouses as: MCCA Spouses are spouses who are members of a married couple one of whom becomes an institutionalized spouse on or after September 30, 1989, and the other spouse becomes a community spouse.
4. The Department correctly determined that the Appellant and his spouse are MCCA spouses.
5. UPM 1500.01 defines Assessment of Spousal Assets as: An Assessment of Spousal Assets is a determination of the total value of all non-excluded available assets owned by both MCCA spouses which is done upon the request of an institutionalized spouse or a community spouse or upon filing of an application for medical assistance and is used to calculate the Community Spouse Protected Amount.

6. The Department was correct to conduct an Assessment of Spousal Assets on ██████████ 2014.
7. UPM 4001.01 defines the Community Spouse Disregard (CSD) as: A community spouse disregard is the amount of the institutionalized spouse's available non-excluded assets which is not counted in determining the institutionalized spouse's eligibility for Medicaid.
8. UPM 4025.67 speaks to MCCA Spouses and provides: A. Circumstances in Which Assets are Deemed: When the applicant or recipient who is a MCCA spouse begins a continuous period of institutionalization, the assets of his or her community spouse (CS) are deemed through the institutionalized spouse's initial month of eligibility as an institutionalized spouse (IS). 1. As described in section 4025.67 D., the CS' assets are deemed to the IS to the extent that such assets exceed the Community Spouse Protected Amount. 2. Any assets deemed from the CS are added to the assets of the IS and the total is compared to the Medicaid asset limit for the IS (the Medicaid asset limit for one adult)
9. UPM 4000.01 defines Community Spouse Protected Amount (CSPA) as A community spouse protected amount is the amount of the total available non-excluded assets owned by both MCCA spouses which is protected for the community spouse and is not counted in determining the institutionalized spouse's eligibility for Medicaid.
10. Uniform Policy Manual ("UPM") 4000.01 defines the Asset Limit as the maximum amount of equity in counted assets which an assistance unit may have and still be eligible for a particular program administered by the Department.
11. UPM 4005.10 provides that the asset limit for Long Term Care Medicaid equals \$1,600.00.
12. The Department was correct to grant assistance to the Appellant effective ██████████ 2014, as prior to this date the amount of assets owned by the couple exceeded the allowable amount of the Community Spouse Protected Amount (CSPA) of \$23,448.00 and the amount of the Title XIX asset limit of \$1,600.00 allowed for the institutionalized spouse. The Department was correct to deny long term care Medicaid coverage for the months of ██████████ of 2013 through ██████████ of 2014 as the couple's assets exceeded the program limit during these months.

**DECISION**

The Appellant's appeal is DENIED.

*Andrea Boardman*

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Andrea Boardman  
Hearing Officer

CC: J. Williams, Operations Manager, DSS R.O. # 60, Waterbury Regional Office

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### **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.