

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 # 622284

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████ 2014, the Department of Social Services (the "Department") sent ██████████, Power of Attorney for ██████████, (the "Appellant") a Notice of Action ("NOA") denying her application for Medicaid long term care (LTC) benefits.

On ██████████, 2014, the Appellant's Power of Attorney requested an administrative hearing to contest the Department's decision to deny such benefits.

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

At the Power of Attorney's request, OLCRAH rescheduled the hearing to ██████████
██████████ 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
Connie Estanislau, Department's Representative
Pamela J. Gonzalez, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether the Department correctly denied the Appellant's [REDACTED] 2013 application for Medicaid LTC benefits.

FINDINGS OF FACT

1. On [REDACTED] 2013, the Appellant applied for Medicaid LTC benefits. (Long-term Care/Waiver Application – Department's exhibit 1)
2. On [REDACTED] 2014, the Department sent to the Appellant a form W-1348 requesting that she provide verification of the face value and cash surrender value of each of her life insurance policies. The form explained that one of the policies must be spent down in order to be Medicaid eligible and if the other policy has a face value in excess of \$1,500.00; it must also be spent down in order to qualify for Medicaid. (Form W-1348 – Department's exhibit 2)
3. The face value of the Appellant's Prudential life insurance policy # [REDACTED] totals \$2,500.00. (Policy Values Statements – Department's exhibit 2)
4. The face value of the Appellant's Prudential life insurance policy # [REDACTED] totals \$2,000.00. (Department's exhibit 2)
5. The total cash surrender value of the Appellant's Prudential life insurance policy # [REDACTED] totals \$5,228.91. (Department's exhibit 2)
6. The total cash surrender value of her Prudential life insurance policy # [REDACTED] totals \$5,960.97. (Department's exhibit 2)
7. On [REDACTED] [REDACTED] 2014, the Appellant's Power of Attorney submitted verification to the Department that she initiated the surrender process for the Appellant's two life insurance policies. (Email message dated [REDACTED] 2014 – Department's exhibit 3)
8. The Appellant expired on [REDACTED] 2014. (Hearing record)
9. The Appellant did not surrender her two Prudential life insurance policies prior to her death. (Appellant's Daughter/Power of Attorney's testimony)
10. Prudential Life Insurance Company paid out death benefits following the Appellant's death. (Appellant's daughter/Power of Attorney's testimony)

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 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. UPM § 4030.30(C)(1) provides that if the total of the 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.
4. UPM § 4030.30(C)(2) provides that except as provided above, the cash surrender value of life insurance policies owned by the individual is counted toward the asset limit.
5. The Department correctly included the Appellant’s life insurance cash surrender value in its determination of her asset eligibility.
6. UPM § 4005.10(A)(2)(a) provides that the asset limit for Medicaid under the Medical Aid for the Aged, Blind, and Disabled program (“MAABD”) for a needs group of one is \$1,600.00.
7. UPM § 4005.05(B) speaks to asset limits and states in part:
 1. 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.
 2. 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.
8. The Prudential Life Insurance policies were not excluded from consideration by state or federal law, and were available to the Appellant because she had the legal right, authority, or power to obtain them or to have them applied for her general or medical support.

9. As of [REDACTED] 2013, the Appellant's assets of \$11,189.88 exceeded the Medicaid asset limit of \$1,600.00.
10. UPM § 4005.15(A)(2) provides that in the Medicaid 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.
11. The Appellant's had not been reduced to an allowable level prior to her death.
12. The Department correctly determined that the Appellant's assets were in excess of the Medicaid asset limit of \$1,600.00 for the months of [REDACTED] 2013 through [REDACTED] 2014, the month in which she died.


DISCUSSION

The Appellant's Daughter explained that the life insurance policies at issue should be considered inaccessible and therefore, not counted in the asset eligibility test. She reasoned that because she was unaware that the policies held any cash surrender (she initially thought that they were term policies), the assets were inaccessible to her. She stated that as soon as she became aware of the value of the assets, she acted to reduce their value through the surrender process. She stated that she is not a lawyer and that she did everything expected of her in the midst of her mother's illness and death.

I find no provision in the regulations to exclude the assets at issue because their cash surrender value was unknown to the Appellant's Daughter/Power of Attorney. The assets meet the definition of available asset and as such, their value is considered in the asset eligibility determination. Because the value of the Appellant's assets of \$11,189.98 exceeds the program asset limit of \$1,600.00 from the month of her application through the month of her death, she does not qualify for Medicaid LTC benefits.

DECISION

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



Pamela J. Gonzalez
Hearing Officer

Copy: Albert Williams, Operations Manager, RO #10, Hartford

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 Legal Counsel, Regulations, and Administrative Hearings, 55 Farmington Avenue, Hartford, CT 06105.

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 his 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.

