**STATE OF CONNECTICUT**
**DEPARTMENT OF SOCIAL SERVICES**
**OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS**
**55 FARMINGTON AVENUE**
**HARTFORD, CT 06105-3725**

[redacted] **2014**
**Signature Confirmation**

**Client ID #**[redacted]
**Request #622575**

## NOTICE OF DECISION

## PARTY

[redacted]

## PROCEDURAL BACKGROUND

On [redacted] 2014, the Department of Social Services (the "Department") sent [redacted] (the "Appellant") a Notice of Action ("NOA) granting Medicaid Long Term Care ("LTC") benefits effective [redacted] 2014, and effectively denying Medicaid LTC benefits for the months of [redacted] 2013 – [redacted] 2014.

On [redacted] 2014, the Appellant requested an administrative hearing to contest the Department's denial of Medicaid LTC benefits for the retroactive period.

On [redacted] 2014, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling an 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's Son and Power of Attorney
[redacted], Appellant's Daughter
Nedra Pierce, Department's Representative
Pamela J. Gonzalez, Hearing Officer

## STATEMENT OF THE ISSUE

The issue is whether the Department correctly denied the Appellant's request for Medicaid LTC benefits during the retroactive period of [redacted] 2013 – [redacted] 2014.

## FINDINGS OF FACT

1. The Appellant was a resident of Norwichtown Rehabilitation and Care Center. (Hearing Record)

2. On [redacted] 2013, the Appellant applied for Medicaid LTC benefits. (Eligibility Management System NARR screen print – Department's exhibit 14, Notice dated [redacted] 2014 – Department's exhibit 13)

3. On [redacted] 2014, the Department denied the Appellant's [redacted] 2013 Medicaid application because she had not returned all of the required verification that was asked for. (Department's exhibit 13)

4. On [redacted] 2014, the Department received information from the Appellant and rescreened her Medicaid LTC benefits application reopening it effective [redacted] 2014. (Department's exhibit 14, Notice of Eligibility dated [redacted] 2014 – Department's exhibit 11)

5. On Section L of the Appellant's application for Medicaid (Life Insurance and Funeral Plans) a handwritten note indicates "Son looking into, unsure if any insurance Resident unable to give info". (Application Form W-1LTC signed by the Appellant's son/Power of Attorney and dated [redacted] 2013 – Department's exhibit 1)

6. On the following dates, the Department sent W-1348 Forms asking for verification that assets, including information pertaining to life insurance, had been reduced to an allowable level: [redacted], 2014, [redacted] 2014, [redacted] 2014, and [redacted] 2014. (W-1348 Forms – Department's exhibits 4, 5, 6, 7)

7. On [redacted] 2014, the date of application, the Appellant owned two life insurance policies with John Hancock Life Insurance Company. The policies were in effect with face values of $5,000.00 and $3,000.00. (John Hancock Summaries for PNO Policies # [redacted], and #[redacted] – Department's exhibit 10)

8. The Medicaid asset limit is $1,600.00. (Hearing record)

9. In [redacted] 2014, the Appellant submitted a request for policy surrender to John Hancock Life and Health Insurance Company. (Requests for Surrender – Department's exhibit 10)

10. The Appellant received two checks from John Hancock for the surrender of her life insurance policies: a check dated [redacted], 2014 for $3,462.95 and a check dated [redacted], 2014 for $4,624.15. (Department's exhibit 10)

11. The Appellant properly reduced her assets to within the allowable asset limit. (Hearing record)

12. On [redacted] 2014, the Department granted Medicaid LTC coverage effective [redacted] 2014. (Notice dated [redacted] 2014 – Department's exhibit 8)

## 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. The face value of the Appellant's two life insurance policies ($5,000.00 and $3,000.00) exceeds $1,500.00.

5. 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.

6. The Department correctly included the Appellant's life insurance cash surrender value in its determination of her asset eligibility.

7. 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.

8. 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.

9. The Appellant's two John Hancock 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.

10. UPM § 1560.10(A) provides that the beginning date of assistance for Medicaid may be…the first day of the first, second, or third month immediately preceding the month in which the Department receives a signed application when all non-procedural eligibility requirements are met and covered medical services are received at any time during that particular month.

11. Based upon the Appellant's application date of [redacted] 2014, the three potential retroactive months of eligibility are [redacted] 2013, [redacted] 2014, and [redacted] 2014.

12. In [redacted] 2013, [redacted] 2014, and [redacted] 2014, the cash value of the Appellant's life insurance assets of $8,028.63. ($4,598.80 cash surrender value for policy #[redacted] and $3,429.83 cash surrender value for policy #[redacted]) exceeded the program's asset limit of $1,600.00.

13. 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.

14. The Department correctly denied the Appellant's application for LTC Medicaid for the months of [redacted] 2014 through [redacted] 2014.

## DISCUSSION

The Appellant's Power of Attorney argued that the life insurance policy at issue should be considered inaccessible and therefore, not counted in the asset eligibility test. He reasoned that because he was unaware of the asset until a bill

from the company came due, the asset was inaccessible to him. He stated that as soon as he became aware of the existence of this asset he acted to reduce its value. He seeks a Medicaid effective date of [redacted] 2013.

On [redacted] 2014, the Department denied the Appellant's [redacted] 2013 application, through which the month of [redacted] 2013 is reachable as a retroactive month. The Appellant did not file an appeal to contest the denial. The hearing request made on [redacted] 2014 appeals the Department's denial of her [redacted] 2014 reapplication for Medicaid. I have no authority to address the [redacted] 2014 denial of benefits.

With respect to the [redacted], 2014 denial of Medicaid for the months of [redacted] 2013 – [redacted] 2014, I find no provision in the regulations to exclude the two assets at issue because their existence was unknown to the Appellant's Power of Attorney. The assets meet the definition of available asset and as such, their value is considered in the asset eligibility determination.

The Appellant's life insurance policies are available assets and are counted in the asset eligibility determination until properly reduced to an allowable level. The Appellant's assets remained over the $1,600.00 Medicaid asset limit for the three-month retro period of [redacted] 2013 – [redacted] 2014.

## DECISION

Appellant's appeal is **DENIED**.

Pamela J. Gonzalez
Hearing Officer

Copy: Bonnie Shizume, SSPM, RO #20, New Haven

## 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.