

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

██████████ 2014  
Signature Confirmation

Client ID#: ██████████  
Hearing ID#: 628224

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2014, the Department of Social Services (the “Department”) granted ██████████  
██████████ (“the Appellant”) ██████████ 2013, application for Medicaid Long Term Care  
benefits effective ██████████ 2014.

On ██████████, 2014, ██████████, the Appellant’s Representative requested an  
administrative hearing to contest the Department’s decision to deny certain months of  
benefits and requested that the Department grant benefits back to ██████████ 2014.

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, 17b-61 and 4-176e to 4-  
184 of the Connecticut General Statutes, inclusive, OLCRAH held an administrative  
hearing. The following individuals were present at the hearing:

██████████, Appellant’s Conservator of the Estate and Person  
Bryant Grimes, Department’s Representative  
Carla Hardy, Hearing Officer

The hearing was left open until [REDACTED] 2014 for the submission of additional documents from the Conservator. On [REDACTED] 2014 the record was closed.

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether the Department correctly granted the Appellant's Long Term Care Medicaid benefit effective [REDACTED] 2014.

### **FINDINGS OF FACT**

1. On [REDACTED] [REDACTED] 2013, the Appellant's representative received her appointment as Conservator of Estate and Person (Exhibit B: Appointment of Conservator documents).
2. Prior to [REDACTED] 2014, the Appellant became a resident at New London Rehabilitation and Care Center of Waterford ("the facility") in Waterford, CT (Exhibit 1: Application, Exhibit C: Representatives letter sent to John Hancock on [REDACTED] 14).
3. On [REDACTED] 2014, the Appellant's representative sent a letter to John Hancock Life Insurance Company ("the life insurance company") requesting surrender of the Appellant's life insurance policy with account number [REDACTED]. This letter included verification of her appointment as Conservator of the Estate and a John Hancock Request for Policy Surrender form (Exhibit C).
4. On [REDACTED] 2014, the life insurance company supplied the representative with the name of the beneficiary of the policy and enclosed a Request for Policy Surrender form (Exhibit D: Notice from John Hancock Life Insurance Company, [REDACTED]/14).
5. On [REDACTED] 2014, the representative sent a letter to the life insurance company requesting the face value, cash value, and status of any loans against the policy (Exhibit E: Letter sent to John Hancock Life Insurance Company, [REDACTED] 14).
6. On [REDACTED] 2014, the life insurance company confirmed receipt of the Conservatorship documents (Exhibit F: Letter from John Hancock Company, [REDACTED]/14).
7. On [REDACTED] 2014, the life insurance company supplied the representative with a policy summary which showed the cash surrender value totaled \$7,295.58 (Exhibit G: Policy Summary).
8. On [REDACTED], 2014, the representative faxed a Request for Policy Surrender form to the life insurance company. This was the representative's third request (Exhibit H: Request for Policy Surrender, [REDACTED]/14).

9. On [REDACTED], 2014, the Appellant applied for Title XIX Long Term Care Medical Assistance (Exhibit 1: Application).
10. The Appellant's spouse resides in a nursing care facility and has applied for Long Term Care Medical Assistance (Exhibit 10: Case Narrative).
11. The Asset limit is \$1600.00 for Long Term Care Medical Assistance (Department's Testimony).
12. On [REDACTED] 2014, the representative received a letter from the insurance company stating they were unable to process the surrender request because the surrender form had to be notarized. In addition, the insurance company enclosed a new Request for Policy Surrender form as the old form submitted by the representative was no longer accepted (Exhibit K: Letter from John Hancock Company, [REDACTED]/14).
13. On [REDACTED] 2014, the Department mailed the conservator a W-1348LTC requesting verifications that were needed to establish eligibility. Among the items requested were five years of bank statements for all open or closed accounts, verification of the face and cash surrender values for any life insurance policies, and proof of his spouse's gross income. The form also notified the Appellant that assets must be reduced to \$1,600.00 or less to be asset eligible (Exhibit 2: W-1348LTC, [REDACTED]/14, Ex. 1: Case Narrative, [REDACTED]/14).
14. The Department received a letter from the conservator dated [REDACTED] 2014, stating she is in the process of requesting surrender of the John Hancock life insurance policy (Hearing Summary).
15. On [REDACTED] 2014, the Department mailed the conservator another W-1348LTC requesting verifications that were needed to establish eligibility. One of the items requested was verification of the face and cash surrender values for any life insurance policies. The form notified the Appellant that assets must be reduced to \$1,600.00 or less to be asset eligible (Exhibit 3: W-1348LTC, [REDACTED]/14).
16. The Department received a copy of a check in the amount of \$7,217.28 from the surrendered John Hancock policy. The check was dated [REDACTED] 2014 (Exhibit 5: Copy of check from John Hancock).
17. The Department received a cash receipts journal from New London Rehabilitation and Care Center of Waterford showing they received \$7,217.28 on [REDACTED] 2014 on behalf of the Appellant (Exhibit 6: Cash Receipts Journal from New London Rehabilitation and Care Center).

18. On [REDACTED] 2014, the Department granted the Appellant's [REDACTED] 2014 application for Medicaid assistance effective [REDACTED] 2014 (Exhibit 9: Notice Content, [REDACTED]/14).

### **CONCLUSIONS OF LAW**

1. Connecticut General Statutes §17b-2 provides in part that the Commissioner is authorized to administer the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Uniform Policy Manual § 4005.05 (B)(1) 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.
3. 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.
4. The Department correctly determined that the Appellant's John Hancock cash surrender value was available to the Appellant.
5. UPM § 4005.05 (D) 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.
6. UPM § 4026.05 pertains to the calculation method for counted assets and states the amount of assets counted in determining the assistance unit's eligibility is calculated in the following manner:
  - A. The Department determines the amount of the assistance unit's available non-excluded assets by subtracting the value of the following assets owned by the assistance unit:
    1. those assets considered to be inaccessible to the assistance unit at the time of determining eligibility; and
    2. assets which are excluded from consideration.
  - B. The Department adjusts the amount of the assistance unit's available non-excluded assets by:
    1. subtracting a Community Spouse Disregard (CSD), when appropriate, for those individuals applying for assistance under the MAABD program (Cross Reference: 4022.05); and
    2. adding any amount of assets deemed to be available to the assistance unit (Cross Reference: 4025); and

3. subtracting a Long-Term Care Insurance Disregard (LTCID), when appropriate, for those individuals applying for or receiving assistance under the MAABD program (Cross Reference: 4022.10).
- C. The amount remaining after the above adjustments is counted.
7. UPM § 4005.10 (A) provides that in the Medicaid program, the asset limit for one person is \$1,600.00.
  8. The Department correctly counted the Appellant's assets and determined the Appellant was over the \$1,600.00 asset limit for the months of [REDACTED] 2014 through [REDACTED] 2014.
  9. On [REDACTED] 2014, the Department correctly granted the Appellant's [REDACTED] 2014 application for Long Term Care Medicaid effective [REDACTED] 2014, as the assets were reduced to the allowable limit.

### **DISCUSSION**

The Appellant's conservator testified she tried to surrender the John Hancock life insurance policy. It is well documented that the conservator initiated the cash surrender of the policy two months prior to placing an application for Medicaid. In addition, she sent several letters and e-mails in an attempt to have the policy surrendered. John Hancock was lax in its response and took from [REDACTED] 2014 to [REDACTED] 2014 to surrender the cash value of the policy.

I find that the Department acted correctly when processing the Appellant's application. The cash surrender value of the policy rendered the Appellant over the asset limit until it was proven to have been surrendered and no longer available to the Appellant. That action took place on [REDACTED] 2014. There is no provision in Departmental regulations that would exclude the John Hancock Life Insurance policy from consideration because the Appellant's conservator made reasonable efforts to obtain control over the policy and surrender it to New London Rehabilitation and Care Center of Waterford. The life insurance policy was a countable asset until it was presented to the facility on [REDACTED] 2014.

### **DECISION**

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

*Carla Hardy*  
Carla Hardy  
Hearing Officer

Pc: Cheryl Parsons, Operations Manager, Norwich RO

### **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.