

Elizabeth Clark, Department's Representative
Sybil Hardy, Hearing Officer

The record was held open for the submission of additional evidence. On [REDACTED], 2014 the record closed.

STATEMENT OF THE ISSUE

The issue is whether the Department correctly denied the Appellant's Long Term Care Medicaid application for the period of [REDACTED] 2013 through [REDACTED] 2014 due to excess assets.

FINDINGS OF FACT

1. On [REDACTED], 2013, the Department received an application on behalf of the Appellant for Long Term Care assistance under the Medicaid program. (Exhibit 1: Notice of Action, [REDACTED]/14)
2. The Appellant is married and her spouse lives in the community. (Conservator's Representative's testimony)
3. During [REDACTED] 2013, the Appellant was admitted to the skilled nursing facility, Apple Rehab, Connecticut (Hearing Record)
4. The Appellant's spouse was granted a Community Spouse Protected Amount ("CSPA") of \$115,920.00. (Exhibit 3: Spousal Assessment Worksheet)
5. The Appellant monthly Social Security benefit payments of \$966.90 were directly deposited to the Appellant's checking account. (Conservator's testimony, Hearing Record)
6. The Appellant's spouse's monthly Social Security benefit payments of \$1,529.90 were directly deposited to his checking account. (Conservator's testimony, Hearing Record)
7. On [REDACTED] 2013, the Department sent a Verification We Need ("W-1348") form requesting the following missing information:
 - A. Information on [REDACTED] and [REDACTED] Family Trust
 - B. Sun Life Financial account information
 - C. Guilford Savings account information and statements
 - D. Webster Bank checking and savings account information
 - E. Burial contract information
 - F. Sale of Mobile Home information
 - G. Vantis Life insurance policy information

- H. Prudential Life insurance policy information
- I. Additional information for Spousal Assessment
- J. Explanation of private payments to the Masonic Nursing facility
- K. Reduce assets below \$1,600.00
(Exhibit 19: Verification We Need ("W-1348") form, [REDACTED] 13)

8. For the period of [REDACTED], 2013 through [REDACTED] 2014 the Department made ten requests for additional information. (Exhibits 19-27: Verification We Need Forms)

9. Effective [REDACTED], 2012, the date of the Appellant's institutionalization, the Appellant had the following assets and balances:

Asset	Balance	Owner on Account
Guilford Savings [REDACTED]	\$3,425.67	Appellant and Spouse
Guilford Savings [REDACTED]	\$3,748.21	Appellant and Conservator
Guilford Savings [REDACTED]	\$7,905.30	Appellant
Webster Bank	\$4,075.09	Appellant and Spouse
Guilford Savings [REDACTED]	\$7,357.78	Appellant
Guilford Savings [REDACTED]	\$12,652.13	Appellant
SunLife Financial [REDACTED]	\$126,461.90	Spouse
Prudential Life [REDACTED]	\$3,351.40	Appellant
Vantis Life (Liberty Bank) [REDACTED]	\$14,955.26	Appellant
[REDACTED] Chev 3500 Truck	\$3,500.00	Appellant and Spouse
[REDACTED] Chev S14	\$Exempt	Appellant and Spouse
[REDACTED] Chev Equinox	\$6,325.00	Spouse
Damen Mobile Home	\$20,000.00	Spouse
Prudential [REDACTED]	\$Exempt	Appellant

(Exhibit 3)

10. The Appellant's Conservator does not dispute the assets or balances. (Appellant's Conservator's testimony)

11. For the period of [REDACTED] 2013 through [REDACTED] 2014, the Appellant's assets were over \$1,600.00. (Hearing Record)

12. The Appellant's Conservator does not dispute the timeframe that the Appellant's Assets were reduced below \$1,600.00. (Appellant's Conservator's testimony)

13. The Appellant's Conservator was aware of the \$1,600.00 for the Medicaid program. (Appellant's Conservator's testimony)

14. On [REDACTED] 2014, the Department's Legal Counsel reviewed the trust established by the Appellant and her spouse and determined that the trust is revocable and available to the Appellant and her spouse. (Exhibit 6: Letter from Daniel T. Butler, Principal Attorney, OLCRAH)

15. During ██████ 2014, the Appellant's assets were reduced to less than \$1,600.00. (Appellant's Conservator's testimony)
16. On ██████ 2014, the Department sent the Appellant a Notice denying medical assistance from ██████ 2013 through ██████ 2014 and granting effective ██████ 2014. (Exhibit 1)

CONCLUSIONS OF LAW

1. Section 17b-260 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the Medicaid program.
2. Uniform Policy Manual ("UPM") § 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 assistance unit.
3. UPM § 4030 provides that the Department evaluates all types of assets available to the assistance unit when determining the unit's eligibility for benefits.
4. 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, 42USC 1396p.
5. 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.
6. 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.
7. UPM § 4005.10 (A) (2) (a) provides that the asset limit for Medicaid for a needs group of one is \$1,600.
8. The Department correctly determined that the accounts with Guilford Savings Bank, Webster Bank, Sun Life Financial, Vantis Life and Prudential Life are owned by the Appellant and her spouse.

9. The Department correctly determined that three vehicles [REDACTED] Chevrolet 3500 truck, [REDACTED] Chevrolet S14 truck, [REDACTED] Chevrolet Equinox are owned and accessible to the Appellant and her spouse.
10. UPM § 4005.15 provides that at the time of application, the assistance unit is ineligible for assistance until the first day it reduces its equity in counted assets to within the particular program asset limit.
11. The Department correctly determined that the accounts with Guilford Savings Bank, Webster Bank, Sun Life Financial, Vantis Life and Prudential Life were accessible assets for the Appellant.
12. The Department correctly determined that the Appellant's assets exceeded the \$1,600.00 asset limit for period [REDACTED] 2013 through [REDACTED] 2014.
13. The Department correctly determined that the Appellant was ineligible for Medicaid for the period of [REDACTED] 2013 through [REDACTED] 2014.
14. The Department correctly denied the Appellant's Long Term Care Application from [REDACTED] 2013 through [REDACTED] 2014.

DISCUSSION

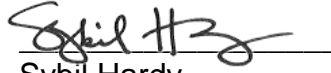
The Department correctly denied the Appellant's Long Term Care Application for the period of [REDACTED] 2013 through [REDACTED] 2014 and granting effective [REDACTED] 2014. The Appellant's Conservator gave testimony that they were aware of the asset but believed the assets were exempt because they were placed in a trust

The Conservator was able to access the trust funds to pay bills for the Appellant and her spouse, therefore the trust established by the Appellant and her spouse was not an inaccessible asset and must be counted toward the Appellant's asset limit.

The Department correctly denied the Applicant's request for Medicaid because the Appellant's assets exceeded the asset limit for the Medicaid program for [REDACTED] 2014 through [REDACTED] 2014.

DECISION

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


Sybil Hardy
Hearing Officer

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.

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 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.