

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

██████████ 2015
Signature Confirmation

Client ID #: ██████████
Hearing ID #: 630978

NOTICE OF DECISION

PARTY

██████████
C/o ██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2014, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") denying his application for Long Term Care ("LTC") Medicaid benefits from ██████████ 2013 through ██████████ 2014, and granting him LTC benefits effective ██████████ 2014.

On ██████████ 2014, the Office of Legal Counsel Regulations and Administrative Hearings ("OLCRAH") received an unsigned hearing request form.

On ██████████ 2014, OLCRAH sent the Appellant's Power of Attorney ("POA") ██████████ a Notice for Request for Signature or Authorization.

On ██████████ 2014, the Appellant's POA requested an administrative hearing to contest the effective date of the LTC Medicaid benefits as determined by the Department.

On ██████████ 2014, OLCRAH issued a notice scheduling an administrative hearing for ██████████ 2014.

On ██████████ 2014, in accordance with sections § 17b-60, 17b-61 and § 4-176e to § 4-184, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing.

The following individuals were present at the hearing:

██████████, Appellant's Son, and Power of Attorney ("POA")
██████████, Appellant's Daughter-In-Law
Irene Ribeiro, Business Officer, Andrew House
Amy Kreidel, Department's Representative
Robert Gugliotti, Department's Representative
Christopher Turner, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department determined the correct effective date of eligibility when it granted the Appellant's application for Long Term Care effective ██████████ 2014.

FINDINGS OF FACT

1. On ██████████ 2013, the Appellant was admitted to Andrew House Healthcare. (Hearing summary)
2. The Appellant's spouse resides in the community. (Hearing summary; Testimony)
3. The Community Spousal Protected Amount ("CSPA") effective ██████████ 2013 was \$23,184.00.
4. On ██████████ 2013, the Department received the Appellant's application for Medicaid Long Term Care ("LTC") assistance. (Exhibit B: Department's narrative page 1 of 7; Exhibit C: W-1F Application; Hearing summary)
5. On ██████████ 2013, the Department sent the Appellant's POA a We Need Verification From You ("W-1348LTC") requesting verification of VA assistance application, Security Benefit Annuity # ██████████; values of all bonds, date of birth verification, Blue Cross/Blue Shield insurance verification, completed Spousal Allowance worksheet. The Department also requested look back verification for four TD Bank accounts, two Webster Bank accounts, UBI account # ██████████, and investment account information from Nuveen and Franklin Templeton. A due date of ██████████/13 was given. (Exhibit B: Page 1 of 7; Hearing summary)

6. On [REDACTED] 2013, the Department sent the Appellant's POA another W-1348LTC requesting verification of VA assistance application, Security Benefit annuity # [REDACTED]; values of all bonds, date of birth verification, Blue Cross/Blue Shield insurance verification, completed Spousal Allowance worksheet. The Department also requested look back verification for four TD Bank accounts, two Webster Bank accounts, UBI account # [REDACTED], and investment account information from Nuveen and Franklin Templeton. A due date of [REDACTED]/13 was given. A note listed the asset limit of \$1,600 for LTC care. (Exhibit B: Page 1 of 7; Exhibit H: Pages 1 and 2 of 43; Hearing summary)
7. On [REDACTED] [REDACTED] 2013, the Department spoke with the Appellant's POA concerning the outstanding verifications. (Exhibit B: Page 1 of 7; Hearing summary)
8. On [REDACTED] 2013, the Department received some requested verifications and sent the Appellant's POA a W-1348LTC. A due of [REDACTED]/13 was given. (Exhibit B: Page 2 of 7; Exhibit 13 page 3 of 21; Hearing summary)
9. On [REDACTED] 2013, the Department received some requested verifications and sent the Appellant's POA another W-1348LTC. A due of [REDACTED]/13 was given. (Exhibit 13: Page 3 of 21; Exhibit H: Page 5 and 6 of 43; Hearing summary)
10. On [REDACTED] [REDACTED] 2013, the Department's representative spoke with the Appellant's POA concerning the Appellant's application verification requirements. (Exhibit B: Page 2 of 7; Hearing summary)
11. On [REDACTED] 2013, the Department sent the Appellant's POA a W-1348LTC requesting an updated annuity statement. A due date of [REDACTED]/14 was given. (Exhibit B: Page 2 of 7; Exhibit H: Page 7 and 8 of 43; Hearing summary)
12. On [REDACTED] 2013, the Department evaluated the Appellant's annuity and determined the annuity is an available asset. (Exhibit B: Page 3 of 7; Hearing summary)
13. The Community Spousal Protected Amount ("CSPA") effective [REDACTED] 2014 was \$25,908.40.
14. On [REDACTED] 2014, the Department's representative reviewed the submitted verifications. The Department sent the Appellant's POA a W-1348LTC requesting verification of VA application, home insurance bill, mortgage payment, Spouses' gross SSA amount, annuity statements, TD Bank # [REDACTED] statements from [REDACTED]/13 to present. A [REDACTED]/14 due date was given. A note listed the asset limit of \$1,600 for LTC care. (Exhibit B: Page B: Page 3 of 7; Exhibit H: Page 9 and 10 of 43; Hearing summary)
15. On [REDACTED] 2014, the Department denied the Appellant's LTC application for failure to provide information. (Exhibit B: Page 3 of 7; Hearing summary)

16. On [REDACTED] 2014, the Department's representative spoke with the Appellant's POA concerning needed documents. The Appellant's POA stated he mailed the requested documents the other day. (Exhibit B: Page 4 of 7; Hearing summary)
17. On [REDACTED] 2014, the Department's representative sent the Appellant's POA an E-Mail indicating she received the outstanding verifications and would reopen the LTC application as of [REDACTED]/14. (Exhibit H: Page 11 of 43)
18. On [REDACTED] 2014, the Department received the requested verifications and rescreened the Appellant's LTC application effective [REDACTED]/14. (Exhibit B: Page 4 of 7; Hearing summary)
19. On [REDACTED] 2014, the Department's representative sent the Appellant's POA a W-1348LTC requesting a home insurance bill, verification of V.A. life insurance, Two Webster Bank accounts, Three T.D. Bank accounts, Franklin Templeton, UBI, and Annuity [REDACTED]. The request noted statements from [REDACTED]/13 through [REDACTED]/14 were needed for the aforementioned accounts. The W-1348LTC also requested the Appellant pay the Andrew House \$7,567.29 in order to reduce assets to \$1,600. A [REDACTED]/14 due was given. (Exhibit B: Page 4 of 7; Exhibit H: Page 12 and 13 of 43; Hearing summary)
20. On [REDACTED] 2014, the Appellant's AREP paid Andrew House Healthcare \$7,567.29. (Appellant's Exhibit 1: Webster Bank check dated [REDACTED]/14.)
21. On [REDACTED] 2014, the Department received updated bank statements. (Exhibit B: Page 4 of 7; Hearing summary)
22. On [REDACTED] 2014, the Department sent the Appellant's POA a W-1348LTC requesting V.A. life insurance, Webster Bank account # [REDACTED], UBI, and TD Bank account # [REDACTED] and [REDACTED]. A note indicated the Appellant is still over assets. A [REDACTED]/14 due date was given. (Exhibit B: Page 4 of 7; Exhibit H: Page 12 and 13 of 43; Hearing summary)
23. On [REDACTED] 2014, the Department received some requested verifications. (Hearing summary)
24. On [REDACTED] 2014, the Department sent the Appellant's POA a W-1348LTC requesting V.A. life insurance, Webster Bank account # [REDACTED], UBI, and TD Bank account # [REDACTED] and # [REDACTED]. A note indicated the Appellant is still over assets. A [REDACTED]/14 due date was given. (Exhibit B: Page 4 of 7; Exhibit H: Page 14 and 15 of 43; Hearing summary)
25. On [REDACTED] 2014, the Department's representative spoke with the Appellant's POA and his wife concerning the Appellant's application status. (Hearing summary)

26. On [REDACTED] 2014, the Department received some requested verifications. (Exhibit B: Page 5 of 7; Hearing summary)
27. On [REDACTED] 2014, the Department sent the Appellant's POA a W-1348LTC requesting V.A. life insurance, Webster Bank account # [REDACTED] UBI, and TD Bank account # [REDACTED] and # [REDACTED]. A note indicated the Appellant is still over assets. A [REDACTED]/14 due date was given. (Exhibit B: Page 5 of 7; Exhibit H: Page 19 and 20 of 43; Hearing summary)
28. On [REDACTED] 2014, the Department received some requested bank statements (Exhibit B: Page 5 of 7; Hearing summary)
29. On [REDACTED] 2014, the Department sent the Appellant's POA a W-1348LTC requesting balances for Webster account # [REDACTED], Franklin # [REDACTED], and Annuity # [REDACTED]. A [REDACTED]/14 due date was given. (Exhibit B: Page 5 of 7; Exhibit H: Page 22 and 23 of 43; Hearing summary)
30. On [REDACTED] 2014, the Department sent the Appellant's POA a W-1348LTC requesting balances for Webster account # [REDACTED], Franklin # [REDACTED] and Annuity # [REDACTED]. A [REDACTED]/14 due date was given. (Exhibit B: Page 5 of 7; Exhibit H: Page 24 and 25 of 43; Hearing summary)
31. On [REDACTED] 2014, the Department granted the Appellant's POA a two-week extension to submit requested information. A [REDACTED]/14 deadline was given. (Exhibit B: Page 5 of 7; Hearing summary)
32. On [REDACTED] 2014, the Department received some requested verifications. (Exhibit B: Page 6 of 7; Hearing summary)
33. On [REDACTED] 2014, the Department sent the Appellant's POA a W-1348LTC requesting balances for Webster account # [REDACTED], Franklin # [REDACTED], and TD Bank # [REDACTED]. A [REDACTED]/14 due date was given. (Exhibit B: Page 6 of 7; Exhibit H: Page 30 of 43; Hearing summary)
34. On [REDACTED] 2014, the Department's representative spoke with the Appellant's POA to discuss and review the spousal assessment. (Exhibit B: Page 6 of 7; Exhibit H: Page 32 of 43; Hearing summary)
35. On [REDACTED] 2014, the Department received some requested verifications. (Exhibit B: Page 6 of 7; Hearing summary)
36. On [REDACTED] 2014, the Department sent the Appellant's POA a community spousal worksheet and a W-1348LTC requesting balances for Webster account # [REDACTED] Franklin # [REDACTED] and TD Bank # [REDACTED] A [REDACTED]/14 due date was given. (Exhibit B: Page 6 of 7; Exhibit H: Page 34 and 35 of 43; Hearing summary)

37. On ██████ 2014, some requested verifications were received. (Exhibit B: Page 6 of 7; Hearing summary)

38. The Appellant's assets for the months of ██████ 2013 and ██████ 2013 through ██████ 2014 were the following:

Month	V.A. Life Insurance	Webster Svgs. # ██████	Webster # ██████	Franklin # ██████
DOI ██████/13	\$7,228.04	\$9,491.50	\$3,706.31	\$1,503.34
██████ 2013	\$7,228.04	\$9,621.74	\$4,125.09	\$1,724.34
██████ 2013	\$7,228.04	\$9,665.10	\$4,902.09	\$1,724.34
██████ 2013	\$7,352.13	\$9,708.46	\$5,451.09	\$1,768.02
██████ 2014	\$7,352.13	\$2,184.52	\$5,783.09	\$1,768.02
██████ 2014	\$7,352.13	\$2,227.76	\$5,967.70	\$1,805.33
██████ 2014	\$ 0.00	\$2,270.96	\$6,859.70	\$1,805.33
██████ 2014	\$ 0.00	\$2,270.96	\$3,593.63	\$1,805.33

Month	UBI # ██████	TD Bank # ██████	TD Bank # ██████	TD Bank # ██████
DOI ██████/13	\$982.06	\$5,346.95	\$2,143.73	\$3,945.31
██████ 2013	\$982.32	\$ 0.00	\$2,189.36	\$8,197.28
██████ 2013	\$982.32	\$ 0.00	\$1,626.89	\$8,197.59
██████ 2013	\$982.32	\$ 0.00	\$3,072.31	\$6,197.92
██████ 2014	\$982.59	\$ 0.00	\$2,110.20	\$6,198.21
██████ 2014	\$ 0.00	\$ 0.00	\$1,043.60	\$6,198.47
██████ 2014	\$ 0.00	\$ 0.00	\$3,105.11	\$6,198.71
██████ 2014	\$ 0.00	\$ 0.00	\$3,105.11	\$6,198.71

Month	Annuity # ██████	Nuveen Shares ██████	First Energy ██████	Total
DOI ██████/13	\$6,447.03	\$4,447.17	\$6,575.36	\$51,816.80
██████ 2013	\$6,447.03	\$4,187.54	\$6,492.64	\$51,195.38
██████ 2013	\$6,447.03	\$4,233.54	\$5,693.60	\$50,700.54
██████ 2013	\$6,640.44	\$4,150.91	\$5,700.64	\$51,024.24
██████ 2014	\$6,622.51	\$4,150.91	\$5,477.12	\$42,229.30
██████ 2014	\$6,622.51	\$4,409.20	\$5,417.28	\$40,643.98
██████ 2014	\$ 0.00	\$4,511.05	\$5,989.28	\$30,740.14
██████ 2014	\$ 0.00	\$4,511.05	\$5,989.28	\$27,474.07

(Exhibit M: Page 13 of 13)

39. On ██████ 2014, the Appellant reduced his assets below \$1,600.00. (Exhibit 13: Page 18 of 21, Hearing summary)
40. On ██████ 2014, the Department granted the Appellant's application for LTC effective ██████ 2014. (Exhibit 13 page 18 of 21, Hearing summary)

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") § 1507.05 (A) (1) (a) states in part: The Department provides an assessment of assets at the request of an institutionalized spouse or a community spouse (1) when one of the spouses begins his or her initial continuous period of institutionalization; and (2) whether or not there is an application for Medicaid; or (b) at the time of application for Medicaid whether or not a request is made.
3. The Department correctly completed an assessment of assets at the time of application.
4. UPM § 1560.10 provides for Medicaid beginning dates of assistance and that the beginning date of assistance for Medicaid may be one of the following:
 - A. 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 month; or
 - B. The first day of the month of application when all non-procedural eligibility requirements are met during that month; or
 - C. The actual date in a spenddown period when all non-procedural eligibility requirements are met. For the determination of income eligibility in spenddown, refer to Income Eligibility Section 5520; or
 - D. The first of the calendar month following the month in which an individual is determined eligible when granted assistance as a Qualified Medicare Beneficiary (Cross Reference: 2540.94). The month of eligibility determination is considered the month that the Department receives all information and verification necessary to reach a decision regarding eligibility.
5. 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.

6. 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.
7. 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.
8. UPM § 4005.10 (A) (2) (a) provides that the asset limit for Medicaid for a needs group of one is \$1,600.
9. 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 that 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.
10. The Department correctly counted the Appellant's assets from the DOI, and [REDACTED] 2013 through [REDACTED] 2014.
 11. The Department correctly determined the Appellant's assets were reduced below \$27,508.40 (\$25,908.40 CSPA + \$1,600 Appellant's share) effective [REDACTED] 2014.

DISCUSSION

Regulation provides that under all programs except Food Stamps, the Department consider 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. In this case, the record reflects the Appellant's assets were over the program limit until [REDACTED] 2014. Although the Appellant's POA experienced delays in obtaining certain requested verifications, the Department acted in accordance with relevant departmental policy and regulation in its eligibility determination.

DECISION

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

Christopher Turner

Christopher Turner
Hearing Officer

Cc: Phil Ober, Operations Manager New Britain
Peter Bucknall, Operations Manager New Britain
Amy Kreidel, DSS

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 06105-3725.

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 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.