

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 # ██████████  
Request # 634623

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2014, the Department of Social Services (the "Department") sent ██████████ ██████████, (the "Appellant") a Notice of Action ("NOA") denying her application for Long Term Care Medicaid benefits for ██████████ 2011 through ██████████ 2011, ██████████ 2011, and ██████████ 2012 through ██████████ 2013.

On ██████████, 2014, the Appellant requested an administrative hearing to contest the Department's decision to deny Long Term Care Medicaid for those months.

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

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

On ██████████ 2014, in accordance with sections 17b-60, 17b-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 Representative  
 Liza Morais, Department's Representative  
 Carla Hardy, Hearing Officer

### STATEMENT OF THE ISSUE

The issue is whether the Department correctly denied Long Term Care Medicaid due to excess assets.

### FINDINGS OF FACT

1. On ██████████, 2011, the Department received an application on behalf of the Appellant for Long Term Care assistance under the Medicaid program (Exhibit 4: Notice Content, ██████/14).
2. The Appellant is a resident of Saint Mary Home Inc., a skilled nursing facility (Appellant's representative's testimony).
3. The Appellant's assets consists of a Bank of America checking account and a Saint Mary Home residential trust account (Exhibit 8: Bank of America checking account # ██████████, Appellant's Exhibit B: Saint Mary resident trust, Hearing Record).
4. The Appellant's income in year 2011 is derived from \$1,240.00 per month Social Security and \$1,029.47 per month ██████████ Pension which are directly deposited into the Bank of America account (Exhibit 8).
5. The Appellant's income in year 2012 is derived from \$1,285.00 per month Social Security and \$1,029.47 per month ██████████ Pension (Exhibit 8).
6. The Appellant's income in year 2013 is derived from \$1,303.00 per month Social Security and \$1,029.47 per month ██████████ Pension (Exhibit 8, Exhibit B).
7. The Appellant had the following assets and balances:

Month	Bank of Am	Resident Trust	Total
██████ 2011	\$5,957.59	\$0.00	\$5,957.59
██████ 2011	\$6,732.65	\$0.00	\$6,732.65
██████ 2011	\$3,057.40	\$0.00	\$3,057.40
██████ 2011	\$3,925.66	\$32.00	\$3,957.66
██████ 2011	\$2,298.32	\$300.00	\$2,598.32
██████ 2012	\$1,829.17	\$369.53	\$2,198.70

████ 2012	\$2,059.73	\$398.04	\$2,457.77
████ 2012	\$2,679.73	\$441.06	\$3,120.79
████ 2012	\$2,451.46	\$501.08	\$2,952.54
████ 2012	\$3,190.31	\$561.10	\$3,751.41
████ 2012	\$2,961.40	\$621.12	\$3,582.52
████ 2012	\$1,261.96	\$681.14	\$1,943.10
████ 2012	\$1,591.99	\$649.67	\$2,241.66
████ 2012	\$2,392.55	\$738.20	\$3,130.75
████ 2012	\$2,163.64	\$766.73	\$2,930.37
████ 2013	\$1,328.67	\$826.76	\$2,155.43

8. The Appellant's representative was aware of the \$1,600.00 asset limit for the Medicaid program (Appellant's Representative's testimony).
9. The Appellant's Representative does not dispute the assets exceeded the asset limit (Appellant's Representative's testimony).
10. The Appellant's assets were below \$1600.00 in █████ 2011, █████ 2011, █████ 2012, █████ 2012, and █████ 2013 forward (Exhibit 8, Exhibit B, Hearing record).
11. On █████ 2014, the Department granted eligibility for Long Term Care Medicaid for █████ 2011, █████ 2011, █████ 2012, █████ 2012, and █████ 2013 forward. The Department denied eligibility for █████ 2011 through █████ 2011, █████ 2011 and █████ 2012 through █████ 2013 (Exhibit 2: Notice Content, █████ 14, Hearing record).

### **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 Bank of America and the Saint Mary Home are owned by the Appellant.
9. 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.
10. The Department correctly determined that the Bank of America and the Saint Mary Home Residential Trust were accessible assets for the Appellant.
11. The Department correctly determined that the Appellant's assets exceeded the \$1,600.00 asset limit for period [REDACTED] 2011 through [REDACTED] 2011, December 2011, and [REDACTED] 2012 through [REDACTED] 2013.
12. The Department correctly determined that the Appellant was ineligible for Medicaid for the period of [REDACTED] 2011 through [REDACTED] 2011, [REDACTED] 2011, and [REDACTED] 2012 through [REDACTED] 2013. .
13. The Department correctly denied the Appellant's Long Term Care Application from [REDACTED] 2011 through [REDACTED] 2011, [REDACTED] 2011, and [REDACTED] 2012 through [REDACTED] 2013.

### **DISCUSSION**

The Appellant's Representative gave testimony that the Department informed him of the \$1,600.00 asset limit. He understands that he was over the asset limit but argued that had the Department not misplace his documents he may have been on top of the situation a little better. However, the assets were accessible to the Appellant for the months in which she was denied and must be counted by the Department. The Department correctly

denied the Appellant's Long Term Care Application for the period of [REDACTED] 2011 through [REDACTED] 2011, [REDACTED] 2011, and [REDACTED]h 2012 through [REDACTED] 2013 because the Appellant's assets exceeded the asset limit for the Medicaid program during those months.

**DECISION**

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

  
Carla Hardy  
Hearing Officer

Pc: Musa Mohamud, Operations Manager; DSS R.O. # 10; Hartford  
Patty Ostroski, Program Manager, DSS R.O. # 10; Hartford  
Elizabeth Thomas, Operations Manager, DSS R.O; #10; Hartford  
Liza Morais, Eligibility Services Specialist, DSS R.O. # 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 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.

