

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#: 638760

NOTICE OF DECISION

PARTY

██████████
Pines at Bristol for Nursing
61 Bellevue Avenue
Bristol, CT 06010

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 Power of Attorney ("POA") 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, the Appellant's representative requested the hearing be rescheduled.

On ██████████ 2014, OLCRAH issued a notice rescheduling the administrative hearing for ██████████ 2014.

On [REDACTED] 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:

[REDACTED], Appellant's POA and son
[REDACTED], Appellant's POA and son
Angelo Maragos, Attorney for the Nursing Facility
Enkelejda Trifoni, Department's Representative
Carleen Mason, Department's Representative
Scott Zuckerman, Hearing Officer

STATEMENT OF THE ISSUE

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

FINDINGS OF FACT

1. On [REDACTED] 2010, the Appellant appointed POA to her sons [REDACTED] and [REDACTED]. (Appellant's Exhibit C: Power of Attorney, [REDACTED]/10)
2. Effective [REDACTED] 2011, the Appellant was a resident at Pines [REDACTED] Nursing Facility (the "facility") in [REDACTED] CT. (Hearing Record)
3. On [REDACTED] 2013, the Appellant applied for Title XIX Long-Term Care Medical Assistance. The appellant listed a checking account as her only asset. (Hearing Summary, Exhibit 15,: W-1F, Application, [REDACTED]/13)
4. The Appellant is widowed. (Ex. 15)
5. The Asset limit is \$1600.00 for Long Term Care Medical Assistance. (Appellant Testimony, Department Testimony)
6. On [REDACTED] 2013, the Department mailed the Appellant a W-1348, Verification We Need form requesting information that was needed to establish eligibility. (Hearing Summary, Exhibit 16: W-1348, [REDACTED]/13)
7. On [REDACTED] 2013, after reviewing items requested on the [REDACTED] 2013 request for information, the Department discovered that the Appellant was the owner of One Hundred twenty (120) stocks through the Occidental Petroleum Corporation. (Ex. 14: Case narrative, [REDACTED] 2012)
8. On [REDACTED] 2013, the Department mailed the POA a W-1348LTC, We Need Verification from you requesting information that was needed to establish eligibility. Among the items requested was a letter from the Occidental

Petroleum Corp verifying the amount and value of stocks owned. The form requested that the Appellant reduce her countable assets to \$1600.00 or less. (Exhibit 1: W-1348LTC, [REDACTED]/13)

9. The Appellant was the owner of the following accounts during the application process: Webster Bank Checking Account # [REDACTED] and 120 shares of Occidental Petroleum Corporation common stock. (Hearing Summary, Appellant's Exhibit B: Webster Bank statements [REDACTED]/13 through [REDACTED]/13 and Ex. 2: Occidental Petroleum Form 1099 [REDACTED]/11 and American stock Information stub [REDACTED]/12)
10. On [REDACTED] 2013, the Department mailed the POA a W-1348LTC, requesting information that was needed to establish eligibility. Among the items requested were bank statements for Webster acct # [REDACTED] and verification of the sale of the stock and the amount received. The form requested that the Appellant reduce her countable assets to \$1600.00 or less. (Exhibit 3: W-1348LTC, [REDACTED]/13)
11. On [REDACTED] 2014, the POA sent the Department a letter from American Stock Transfer and Trust Company that the market value of the Occidental Petroleum stocks as of [REDACTED] 2014 was \$10,597.20. (Hearing Summary, Exhibit 4: American Stock letter, [REDACTED]/14 and Exhibit 14: Case narrative [REDACTED]/14)
12. On [REDACTED] 2014, the Appellant received \$12,264.00 from the sale of the 120 shares of Occidental common stock. (Exhibit 8: Copy of check and information stub from American Stock, [REDACTED]/14)
13. On [REDACTED] 2014, the proceeds of \$12,264.00 from the Occidental stock were deposited into Webster checking acct # [REDACTED] (Appellant's Exhibit B: Webster bank statement [REDACTED]/14 through [REDACTED]/14)
14. On [REDACTED] 2014, the Appellant's POA made a payment to the facility in the amount of \$12,026.00 (Hearing Summary, Ex. 9: Copy of check, [REDACTED]/14 and Ex. B: Webster bank statement, [REDACTED]/14 through [REDACTED]/14)
15. The Appellant's assets for the months of [REDACTED] 2014 through [REDACTED] 2014 were the following :

Month	120 shares Occidental Petroleum Stock	Webster Bank acct # [REDACTED]
[REDACTED] 2014	\$10,597.20	\$1498.02
[REDACTED] 2014	\$10,597.20	\$1084.20
[REDACTED] 2014	\$10,597.20	\$1025.59
[REDACTED] 2014	\$10,597.20	\$1167.01
[REDACTED] 2014	\$10,597.20	\$768.13
[REDACTED] 2014	\$0.00	\$1499.51

(Ex. B, Ex. 4, Ex. 8, Ex. 9)

16. In █████ 2014, the Appellant reduced her assets to below \$1600.00. (Hearing Summary, Ex. B, Ex. 4, Ex. 8 and Ex. 9)
17. On █████ 2014, the Department granted the Appellant's █████ 2013, application for Medicaid Assistance effective █████ 2014. (Hearing Summary, Ex. 10: Notice, █████/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. UPM § 4030.75 provides for the treatment of: A. Stocks 1. The equity value of a share of stock is the net amount the owner would receive upon selling the share. 2. In computing this net amount due the owner, the Department subtracts the broker's fee, if any, from the market value of the share of stock
5. The Department correctly determined that the Appellant's Occidental Petroleum Stock and Webster Bank account were available to the Appellant.
6. UPM § 1560.10 discusses Medicaid beginning dates of assistance and provides 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 particular 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 spend-down, 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 to be the month that the Department receives all information and verification necessary to reach a decision regarding eligibility.

7. 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. The Department correctly counted the Appellant's assets for the months of [REDACTED] 2014 through [REDACTED] 2014.
8. UPM Section 4005.10 (A) provides that in the Medicaid program, the asset limit for one person is \$1,600.00.
9. On [REDACTED] 2014, the Department correctly granted the Appellant's [REDACTED] 2013 application for Long Term Care Medicaid effective [REDACTED] 2014, as the assets were reduced to under the allowable limit.

DISCUSSION

The hearing centered around 120 shares of Occidental Petroleum Corp. common stock owned by the Appellant. The Appellant's POA's testified that they experienced difficulties in liquidating the stock for months. They stated that the holding company questioned the validity of the POA. In addition the original stock certificates were unable to be located and they had to request duplicate certificates. The POA's testified that the tax ID on the Appellant's 1099 had an error in regards to her Social Security number. The Appellant's POA's testified that the months it took to liquidate the stock took a significant amount of effort and the stock values should be considered inaccessible for those months.

In [REDACTED] 2014, the stocks were liquidated and the proceeds were paid to the nursing facility. On [REDACTED] 2014, a check was sent to the Pines reducing the assets to under the \$1600.00 Medicaid asset limit.

I find that the Department acted correctly when processing the Appellant's application. There is no provision in Departmental regulations which would exclude the Occidental Petroleum stocks from consideration because the Appellant's POA's were making reasonable efforts to obtain control over them and reduce the assets to under the \$1600.00 limit.

DECISION

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



Scott Zuckerman
Hearing Officer

Cc: Phil Ober, Operations Manager, DSS R.O. #52, New Britain
Peter Bucknall, Operations Manager, DSS R.O. # 52, New Britain

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.

