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

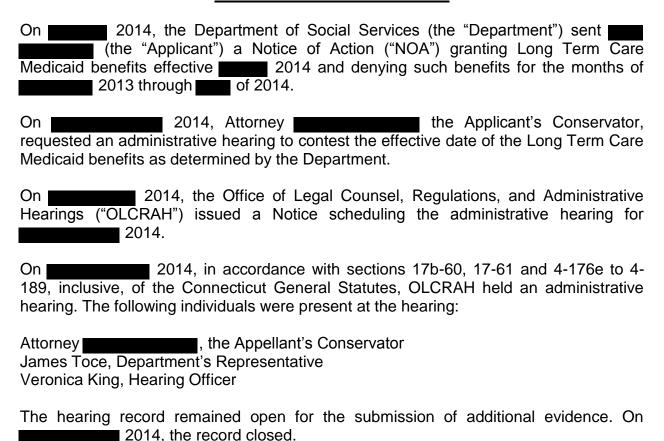
Client ID # Request # 639498

NOTICE OF DECISION

PARTY

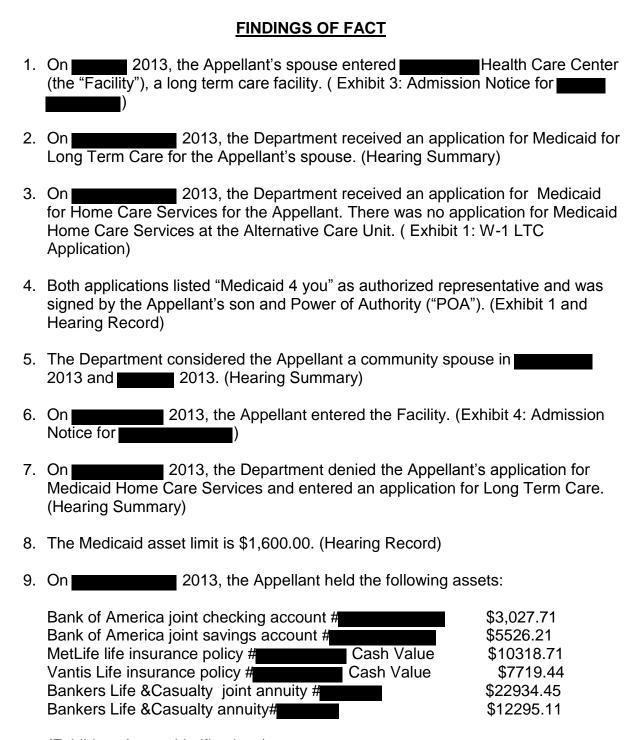


PROCEDURAL BACKGROUND

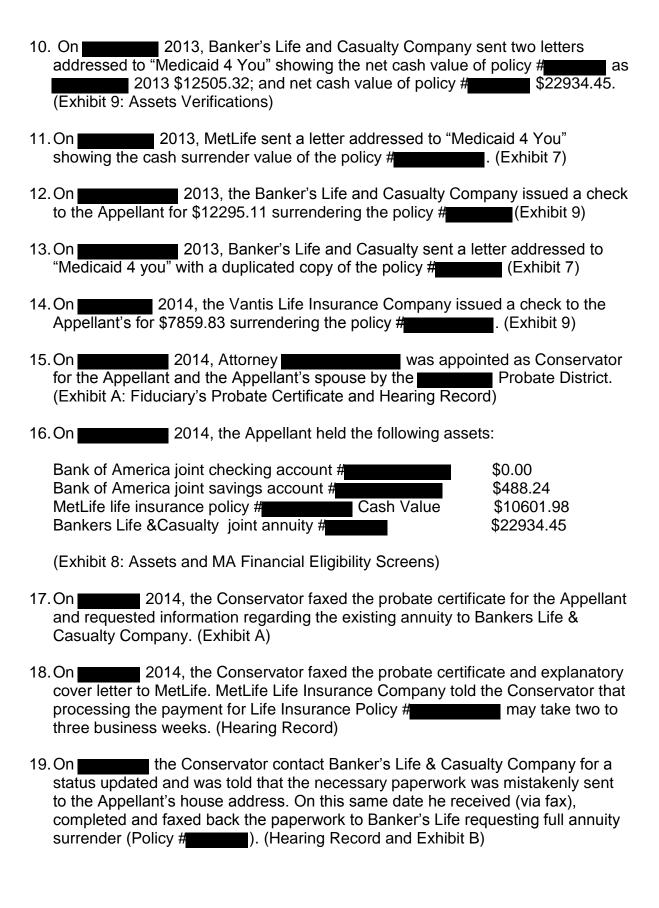


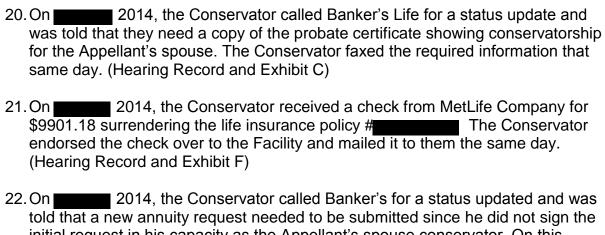
STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to grant Long Term Care benefits effective 2014 was correct.



(Exhibit 7: Assets Verifications)





- 23. On 2014, the Conservator received a letter from Banker's Life dated 2014, requesting signatures from the Appellant and the Appellant's spouse. The Conservator signed the paperwork on behalf of the Appellant and the Appellant's spouse and forwarded to Banker's Life per their request. (Hearing Record and Exhibit E)
- 24. On 2014, the Conservator received a check from Banker's Life and Casualty Company for \$23599.03 surrendering the annuity policy # Conservator endorsed he check over to the Facility and mailed it to them at same day. (Hearing Record and Exhibit G)
- 25. On 2014, the Appellant passed away. (Hearing Record and Exhibit 17)
- 26. On 2014, the Department granted Medicaid for Long Term Care for the Applicant effective 2014. (Exhibit 12: Notice of Approval for Long Term Care Medicaid)

CONCLUSIONS OF LAW

- Section 17b-2 of the Connecticut General Statutes, authorizes the Department of Social Services to administer the Medicaid program pursuant to Title XIX of the Social Security Act.
- 2. Uniform Policy Manual ("UPM") Section 4030 provides that the Department evaluates all types of assets available to the assistance unit when determining the unit's eligibility for benefits.

- 3. UPM § 4005.10 provides that the Medicaid asset limit for a needs group of one is \$1,600.00 per month.
- 4. UPM § 4000.01 defines available assets as cash or any item of value which is actually available to the individual or which the individual has the legal right, authority or power to obtain, or to have applied for, his or her general or medical support.
- 5. UPM § 4005.05(B) speaks to the asset limit and states in part:
 - 1. The Department counts the assistance unit's equity in an asset towards the asset limit if the asset is not excluded by state or federal law and is either:
 - a. Available to the unit; or
 - b. Deemed available to the unit.
 - 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 § 4030.30 C 1 and 2 provides that unless the total value of all life insurance policies owned by an individual does not exceed \$1500, the cash surrender value of life insurance policies owned by the individual is counted towards the asset limit.
- 7. UPM § 4030.47 provides in part that annuities are evaluated as both an asset representing an investment and as income that the beneficiary may receive on regular basis (cross reference 5050, treatment of specific types). The assistance unit's equity in an annuity is a counted to the extent that the assistance unit can sell or otherwise obtain the entire amount of equity in the investment.
- 8. UPM § 4005.05 (D) (1) provides that the Department compares the assistance unit's equity in counted assets with the program asset limit when determining whether the unit is eligible for benefits.
- 9. The Department correctly determined that the \$9901.18 cash surrender value of the Appellant's MetLife whole life insurance policy # was counted towards the asset limit.
- 10. The Department correctly determined that the \$23599.03 cash surrender value of the Appellant's Banker's Life & Casualty annuity policy # was counted towards the asset limit.
- 11. The Department correctly determined that the Appellant was ineligible for Medicaid for Long Term Care for the months of 2013 through of 2014 because the Appellant's assets exceeded the allowable asset limit of \$1600.

- 12. UPM § 4005.15 provides that in the Medicaid program, at the time of application, the assistance unit is ineligible until the first day of the month in which it reduces its equity in counted assets to within the asset limit.
- 13. The Department correctly determined that the Applicant's assets were reduced to below \$1600 in of 2014.
- 14. The Department correctly granted Medicaid for Long Term Care effective 2014.

DISCUSSION

The Department's responsibility is to review the information and determine whether eligibility for Medicaid exists at a certain point in time per the policy and regulations. The Appellant's Conservator does not dispute the Department's figures of total assets.

The Conservator argues that the cash value of the MetLife life insurance policy was inaccessible until the end of 2014, and the cash value of the Banker's Life annuity policy # was inaccessible until the month of 2014, and therefore should not be counted. The fact is that the Appellant's total assets exceeded the allowable limit until the Appellant reduced those assets in 5014.

The Conservator testified he contacted the companies upon his appointment as Conservator of Estate and made every effort to reduce the Appellant's assets within the Medicaid asset limit. However, due to both administrative delays and requests for documentation made by the Banker's Life & Casualty Company, the Appellant's assets were reduced on 2014. There are no provisions or exceptions in policy that permit the Department to grant benefits in a month when there is no eligibility due to excess assets. The bottom line is that the Applicant's assets exceeded the allowable limit until of 2014. The Department correctly determined that the Appellant was not eligible for Medicaid for Long Term care prior to 6014.

DECISION

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

Veronica King Hearing Officer

Veronica King

Cc: Musa Mohamud, DSS Operations Manager, DO#10 Hartford. Elizabeth Thomas, DSS Operation Manager, DO#10 Hartford. James Toce, DSS Eligibility Services Specialist and Liaison, DO#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 <u>specific</u> grounds for the request: for example, indicate <u>what</u> error of fact or law, <u>what</u> new evidence, or <u>what</u> 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.