

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 # 639501

**NOTICE OF DECISION**

**PARTY**

██████████  
For ██████████  
██████████  
██████████  
██████████

**PROCEDURAL BACKGROUND**

On ██████████ 2014, the Department of Social Services (the "Department") sent ██████████ (the "Applicant") a Notice of Action ("NOA") granting Long Term Care Medicaid benefits effective ██████████ 2014 and denying such benefits for the months of ██████████ 2013 through ██████████ of 2014.

On ██████████ 2014, Attorney ██████████ the Applicant's Conservator, requested an administrative hearing to contest the effective date of the Long Term Care Medicaid benefits as determined by the Department.

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

On ██████████ 2014, in accordance with sections 17b-60, 17-61 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:

Attorney ██████████, the Appellant's Conservator  
James Toce, Department's Representative  
Veronica King, Hearing Officer

The hearing record remained open for the submission of additional evidence. On ██████████ 2014, the record closed.

## STATEMENT OF THE ISSUE

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

## FINDINGS OF FACT

1. On [REDACTED] 2013, the Appellant's entered [REDACTED] Health Care Center (the "Facility"), a long term care facility. ( Exhibit 3: Admission Notice for [REDACTED] )
2. On [REDACTED] 2013, the Department received an application for Medicaid for Long Term Care for the Appellant. ( Exhibit 1: W-1 LTC Application)
3. On [REDACTED] 2013, the Department received an application for Medicaid for Home Care Services for the Appellant's spouse. There was no application for Medicaid Home Care Services at the Alternative Care Unit. ( Hearing Summary)
4. Both applications listed "Medicaid 4 you" as authorized representative and was signed by the Appellant's son and Power of Authority ("POA"). (Exhibit 1 and Hearing Record)
5. The Department considered the Appellant's spouse a community spouse in [REDACTED] 2013 and [REDACTED] 2013. (Hearing Summary)
6. On [REDACTED] 2013, the Appellant's spouse entered the Facility. (Exhibit 4: Admission Notice for [REDACTED] )
7. On [REDACTED] 2013, the Department denied the Appellant's spouse's application for Medicaid Home Care Services and entered an application for Long Term Care. (Hearing Summary)
8. The Medicaid asset limit is \$1,600.00. (Hearing Record)
9. On [REDACTED] 2013, the Appellant held the following assets:

Bank of America joint checking account # [REDACTED]	\$3,027.71
Bank of America joint savings account # [REDACTED]	\$5526.21
Bankers Life & Casualty joint annuity # [REDACTED]	\$11799.51
American General Policy # [REDACTED]	\$8508.01
IBM stocks	\$188.00
Share of Spousal Assets	\$29004.90

(Exhibit 7: Assets Verifications and Exhibit 8: Assets and Financial Eligibility Screens)

10. On [REDACTED] 2013, Banker's Life and Casualty Company sent two letters addressed to "Medicaid 4 You" showing the net cash value of policy # [REDACTED] as \$22934.45. (Exhibit 9: Assets Verifications)
11. On [REDACTED] 2013, Banker's Life and Casualty sent a letter addressed to "Medicaid 4 you" with a duplicated copy of the policy # [REDACTED]. (Exhibit 9)
12. On [REDACTED] 2014, American General Company issued a \$8582.75 check surrendering Policy # [REDACTED]. The check was endorsed and mailed to the Facility. (Exhibit 9)
13. On [REDACTED] 2014, Attorney [REDACTED] was appointed as Conservator for the Appellant and the Appellant's spouse by the [REDACTED] Probate District. (Exhibit C: Fiduciary's Probate Certificate and Hearing Record)
14. On [REDACTED] 2014, the Appellant held the following assets:
- |   |            |
|---|------------|
| Bank of America joint checking account # [REDACTED] | \$0.00     |
| Bank of America joint savings account # [REDACTED]  | \$488.24   |
| Bankers Life & Casualty joint annuity # [REDACTED]  | \$22934.45 |
| IBM stocks  | \$188.00   |
- (Exhibit 8 and Exhibit 9))
15. On [REDACTED] 2014, the Conservator faxed the probate certificate for the Appellant's spouse and requested information regarding the existing annuity to Bankers Life & Casualty Company. (Exhibit A)
16. On [REDACTED] the Conservator contact Banker's Life & Casualty Company for a status updated and was told that the necessary paperwork was mistakenly sent to the Appellant's house address. On this same date he received (via fax), completed and faxed back the paperwork to Banker's Life requesting full annuity surrender (Policy # [REDACTED]). (Hearing Record and Exhibit B)
17. On [REDACTED] 2014, the Conservator called Banker's Life for a status update and was told that they need a copy of the probate certificate showing conservatorship for the Appellant. The Conservator faxed the required information that same day. (Hearing Record and Exhibit C)
18. On [REDACTED] 2014, the Conservator called Banker's for a status updated and was told that a new annuity request needed to be submitted since he did not sign the initial request in his capacity as the Appellant's conservator. On this same date the conservator signed and faxed a request for full annuity surrender (Policy # [REDACTED]). (Hearing Record and Exhibit D)

19. On [REDACTED] 2014, the Conservator received a letter from Banker's Life dated [REDACTED] 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)
20. On [REDACTED] 2014, the Conservator received a check from Banker's Life and Casualty Company for \$23599.03 surrendering the annuity policy # [REDACTED]. The Conservator endorsed the check over to the Facility and mailed it to them at same day. (Hearing Record and Exhibit G)
21. On [REDACTED] 2014, the Appellant's spouse passed away. (Hearing Record and Exhibit 17: Client Demographic Screen)
22. On [REDACTED] 2014, the Department granted Medicaid for Long Term Care for the Applicant effective [REDACTED] 2014. (Exhibit 12: Notice of Approval for Long Term Care Medicaid)

### **CONCLUSIONS OF LAW**

1. 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.

2. 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 § 4030.47 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 counted to the extent that the assistance unit can sell or otherwise obtain the entire amount of equity in the investment.
  
7. 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.
  
8. The Department correctly determined that the \$23599.03 cash surrender value of the Appellant's Banker's Life & Casualty annuity policy # [REDACTED] was counted towards the asset limit.
  
9. The Department correctly determined that the Appellant was ineligible for Medicaid for Long Term Care for the months of [REDACTED] 2013 through [REDACTED] of 2014 because the Appellant's assets exceeded the allowable asset limit of \$1600.
  
10. 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.
  
11. The Department correctly determined that the Applicant's assets were reduced to below \$1600 in [REDACTED] of 2014.
  
12. The Department correctly granted Medicaid for Long Term Care effective [REDACTED] 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 Banker's Life annuity policy # [REDACTED] was inaccessible until the month of [REDACTED] 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 [REDACTED] of 2014.

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 [REDACTED] 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 [REDACTED] of 2014. The Department correctly determined that the Appellant was not eligible for Medicaid for Long Term care prior to [REDACTED] of 2014.

### **DECISION**

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

*Veronica King*

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Veronica King  
Hearing Officer

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 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.