

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#: 641970

NOTICE OF DECISION

PARTY

██████████
C/O ██████████
██████████
██████████

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 Representative and 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 ██████████ 2013.

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, 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:

██████████, Appellant's Representative
Amy Kriedel, 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] 2005, the Appellant appointed her daughter as POA. (Departments Exhibit 2: Power Of Attorney of [REDACTED], [REDACTED]/05)
2. Effective [REDACTED] 2013, the Appellant was a resident at [REDACTED] Health Care Center (the "facility") in [REDACTED] CT. (Exhibit 1: W-1LTC Long-term care/Waiver Application dated [REDACTED] 2013)
3. On [REDACTED] 2013, the Appellant applied for Title XIX Long-Term Care Medical Assistance. (Hearing Summary, Ex. 1: W-1LTC, Application, [REDACTED]/13)
4. The Appellant is divorced. (Hearing Record)
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 POA a W-1348LTC – We Need Verification from You requesting verifications that were needed to establish eligibility. Among the items requested were statements for the M&T Bank checking account # [REDACTED], Savings account # [REDACTED] and American Funds retirement accounts. The form requested that the Appellant reduce her countable assets to \$1600.00 or less. (Ex. 3: W-1348LTC, [REDACTED]/13)
7. The Appellant was the owner of the following accounts during the application process: American Funds retirement account # [REDACTED], American Funds retirement account # [REDACTED], M&T Savings account # [REDACTED] and M&T checking account # [REDACTED] (Hearing Summary, Ex. 3: W-1348's , Ex. 8: M& T checking acct # [REDACTED] statements [REDACTED]/14 through [REDACTED]/14, Ex. 9: M & T # [REDACTED] Bank statements [REDACTED]/13 through [REDACTED]/14)
8. From [REDACTED] 2013 through [REDACTED] 2014, the Department mailed the POA thirteen W-1348's requesting items such as statements from the bank accounts, American Funds accounts, verifications where proceeds of the American funds accounts were deposited and how they were spent. On each form the Department informed the Appellant that she must reduce her countable assets to \$1600.00 or less. (Ex. 3: W-1348's, [REDACTED]/13, [REDACTED]/14, [REDACTED]/14, [REDACTED]/14, [REDACTED]/14, [REDACTED]/14, [REDACTED]14, [REDACTED]/14 [REDACTED]/14, [REDACTED]/14, [REDACTED]/14, [REDACTED]/14 and [REDACTED]/14)

9. From ██████████ 2013 through ██████████ 2014, the American Funds acct # ██████████ had a balance of \$4,621.85. (Exhibit 7: American Funds Quarterly Statement, ██████████ 2014)
10. On ██████████ 2014, the American Funds account # ██████████ closed with a value of \$5,003.15. (Ex. 7: American Funds Quarterly Statement, ██████████ 2014)
11. On ██████████ 2014, the proceeds of \$5,003.15 were deposited into M&T acct # ██████████. (Ex. 8: M & T bank statement)
12. On ██████████ 2014, the Appellant made a payment to the facility in the amount of \$5,003.15 from M&T acct # ██████████. (Ex. 8: M&T account history ██████████/14 through ██████████/14 and copy of check)
13. From ██████████ 2013 through ██████████ 2014, the American Funds acct # ██████████ had a balance of \$12,592.39 to \$13,631.27. (Ex. 7: American Funds Quarterly Statement, ██████████ 2014)
14. On ██████████ 2014, the American Funds account # ██████████ closed with a value of \$13,752.26. (Ex. 7)
15. On ██████████ 2014, the proceeds of \$13,752.26 were deposited into M&T acct # 3617. (Ex. 8: M&T Bank account history, ██████████ 14 through ██████████/14)
16. On ██████████ 2014, the Appellant made a payment towards the principal balance of a loan at M&T bank. (Ex. 8: M&T account history ██████████ 14 through ██████████/14 and copy of check)
17. The Appellant's assets for the months of ██████████ 2013 through ██████████ 2014 were the following :

Month	American Funds # ██████████	American Funds # ██████████	M&T Bank # ██████████	M&T Bank # ██████████
██████████ 2013	\$4621.85	\$12,592.39	Unknown	\$0.02
██████████ 2013	\$4621.85	\$12,592.39	Unknown	\$0.02
██████████ 2014	\$4621.85	\$12,592.39	Unknown	\$0.02
██████████ 2014	\$4621.85	\$12,592.39	Unknown	\$0.02
██████████ 2014	\$4621.85	\$12,592.39	Unknown	\$0.02
██████████ 2014	\$4621.85	\$12,592.39	Unknown	\$0.02
██████████ 2014	\$4621.85	\$12,592.39	\$1593.97	\$0.02
██████████ 2014	\$5003.15	\$13,631.27	\$1852.21	\$0.02
██████████ 2014	\$0.00	\$13,631.27	\$3141.92	\$0.00
██████████ 2014	\$0.00	\$0.00	\$270.83	\$0.00

(Ex. 7, Ex. 8 and Exhibit 9: M&T Bank act █████ statements █████/13 through █████/14)

18. In █████ 2014, the Appellant reduced her assets to below \$1600.00. (Hearing Summary, Ex. 8: M&T bank account history)
17. On █████ 2014, the Department granted the Appellant's █████ 2013, application for Medicaid Assistance effective █████ 2014. (Hearing Summary, Ex. 6: Notice of Approval, █████/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. The Department correctly determined that the Appellant's American Funds retirement and M&T Bank accounts were available to the Appellant.
5. 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.

6. 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] 2013 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] [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 two American Funds retirement accounts owned by the Appellant. The Appellant's POA testified that accessing the Appellant's retirement accounts was difficult. She stated that she had to go through boxes of financial information and when discovered she was under the assumption that the American Funds accounts were a trust. She stated due to her mother's medical

condition they were inaccessible. American Funds informed the POA she did not have a legal right to access the Appellant's accounts. The POA testified that it wasn't until the Appellant spoke to American funds and completed the paperwork that the accounts were closed and the Appellant's POA was sent the proceeds. She was able to liquidate and spenddown one of the accounts in [REDACTED] 2014 and the second account in [REDACTED] 2014.

I find that the Department acted correctly when processing the Appellant's application. There is no provision in Departmental regulations which would exclude the American Funds accounts from consideration because the Appellant's POA was making reasonable efforts to have the Appellant liquidate the retirement accounts and reduce them to under the \$1600.00 limit.

DECISION

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



Scott Zuckerman
Hearing Officer

Cc: Judy Williams, Operations Manager, DSS, Waterbury Regional Office
Karen Main, Operations Manager, DSS, Waterbury Regional Office
Amy Kriedel, Fair Hearing Liaison, DSS, Waterbury Regional Office.

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 06105-3725.

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. 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.