

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 # 642447

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2014, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") indicating that the Department is denying ██████████ (the "applicant") Long Term Care ("LTC") Medicaid benefits for the months of ██████████ 2013 through ██████████ 2014.

On ██████████ 2014, the Appellant's Representative requested an administrative hearing to contest the denial of 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.

The Appellant's Attorney requested a rescheduled hearing date.

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:

██████████, Appellant's Daughter and Conservator of Person and Estate

Attorney [REDACTED] Appellant's Attorney  
 Julia Solano, Department's Representative  
 Amy Kreidel, Department's Representative  
 Shelley Starr, Hearing Officer

The Applicant, [REDACTED] was not present at the hearing.

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

### STATEMENT OF THE ISSUE

The issue to be decided is whether the Department determined the correct effective date of eligibility when it granted the Appellant's application for Long Term Care effective [REDACTED] 2014.

### FINDINGS OF FACT

1. On [REDACTED] 2013, [REDACTED], ("the applicant") was admitted to Sheriden Woods Health Care Center of [REDACTED] Connecticut. (Department's Testimony and Appellant's Testimony)
2. On [REDACTED] 2013, the Applicant with the help of his Daughter, applied for Long Term Care Medicaid. (Exhibit 1: W-1F Application, received [REDACTED] 2013 )
3. On [REDACTED] 2013, the Applicant's daughter, [REDACTED] was appointed Conservator of the Person and Estate, (hereafter the Appellant). (Appellant's Exhibit B: Probate Decree/Appointment of Conservator, signed [REDACTED] 2013)
4. The Applicant is 70 years old (DOB [REDACTED]/44), divorced and has a primary medical diagnosis of dementia. (Appellant's Testimony)
5. Between [REDACTED] 2013 and [REDACTED] 2014, the Department sent a total of twelve (12) W-1348 Verification We Need or W-1348 LTC Addendums advising to reduce assets below \$1600.00. (Department's Exhibit 10: W-1348 dated [REDACTED] 2013, [REDACTED] 2013, [REDACTED] 2014, [REDACTED] 2014, [REDACTED] 2014, [REDACTED] 2014, [REDACTED] 2014, [REDACTED] 2014, [REDACTED] 2014, [REDACTED] 2014, [REDACTED] 2014, [REDACTED] 2014 and [REDACTED] 2014.)
6. The Applicant is the owner of the following bank accounts, IRA and life insurance policy during the application process: Webster checking account # [REDACTED], Webster checking account # [REDACTED], Lincoln Life Insurance policy # [REDACTED] and Fidelity IRA # [REDACTED]. (Appellant's Testimony; Department's Testimony; Department's Exhibit 1: W-1F Application dated [REDACTED] 2013)
7. The Applicant's Lincoln Life insurance policy # [REDACTED] has a face value of \$25,000.00 and a net cash surrender value as of [REDACTED] 2013 of \$9,348.82.

(Department's Exhibit 3: Asset Information; Lincoln Financial letter dated [REDACTED] 2013.)

8. Both parties stipulated that between the months of [REDACTED] 2013 through [REDACTED] 2014, the Applicant exceeded the Medicaid asset limit of \$1,600.00. (Attorney [REDACTED] Testimony and Department's Testimony)
9. The Appellant is seeking Medicaid eligibility effective [REDACTED] 2014. (Attorney [REDACTED] Testimony)
10. The Appellant had difficulty with the reduction of the Applicant's assets and had a combination of events such as the birth of her second son and injury to her ankle that affected the timeliness and completion of the Applicant's reduction of assets. (Appellant's Exhibit E: Affidavit dated [REDACTED] 2014; Appellant's Testimony and Hearing Record)
11. The value of the Applicant's assets for the months of [REDACTED] 2014 through [REDACTED] 2014 were the following :

Month	Fidelity # [REDACTED]	Lincoln # [REDACTED]	Webster # [REDACTED]	Webster # [REDACTED]
[REDACTED] 2014	2,200.05	13,629.01	3,043.00	3,928.75
[REDACTED] 2014	2,192.14	13,629.01	1,474.00	25.14
[REDACTED] 2014	2,229.97	13,629.01	1,534.00	25.14
[REDACTED] 2014	0.00	0.00	784.25	493.27

(Department's Exhibit 3: Fidelity # [REDACTED], Lincoln # [REDACTED], Webster # [REDACTED], Webster # [REDACTED] Statements and Department's Exhibit 12: Ast1 Screen-prints for [REDACTED] 2014, [REDACTED] 2014 and [REDACTED] 2014)

12. On [REDACTED] 2014, the Applicant's Fidelity account # [REDACTED] was closed and the Applicant was issued a Fidelity distribution check for \$2,187.88. (Department's Exhibit 3: Fidelity Check #919629391 dated [REDACTED] 2014)
13. On [REDACTED] 2014, Lincoln Financial surrendered life insurance policy # [REDACTED] and the proceeds was deposited into Webster checking account # [REDACTED]. (Department's Exhibit 3: Lincoln Financial letter dated [REDACTED] 2014)
14. On [REDACTED] 2014, the Department granted the Applicant's [REDACTED] 2013 application for Medicaid assistance effective [REDACTED] 2014 and denied the application for the months [REDACTED] 2013, through [REDACTED] 2014 because the Applicant's assets exceeded the allowable limit. (Department's Exhibit 5: Notice of Approval for Medicaid dated [REDACTED] 2014 and Department's Exhibit 6: Notice of Denial dated [REDACTED] 2014)

## 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”) § 4030 provides that the Department evaluates all types of assets available to the assistance unit when determining the unit's eligibility for benefits.
3. 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, 42 USC 1396p
4. UPM § 4030.30 (C) provides that for the AABD and MAABD programs: 1. If the total face value of all life insurance policies owned by the individual does not exceed \$1500.00, the cash surrender value of such policies is excluded. In computing the face value of life insurance, the Department does not count insurance such as term insurance which has no cash surrender value; and 2. Except as provided above, the cash surrender value of life insurance policies owned by the individual is counted toward the asset limit.
5. 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 unit.
6. UPM § 4015.05 (A) provides that subject to the conditions described in this section, equity in an asset which is inaccessible to the assistance unit is not counted as long as the asset remains inaccessible.
7. UPM § 4015.05 (B) (1) provides the burden is on the assistance unit to demonstrate that an asset is inaccessible.
8. 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.

**The Department correctly determined that the Applicant's Fidelity IRA Account, Webster Accounts and Lincoln Financial Life Insurance cash surrender value**

**were available and accessible to the Applicant.**

9. 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.
10. UPM § 4005.10 provides that the Medicaid asset limit for a needs group of one in the Medical Assistance for Aged, Blind or Disabled ("MAABD") program is \$1,600.00.
11. UPM § 4005.15 provides that in the Medicaid MAABD 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.

**The Department correctly counted the Applicant's assets and correctly determined that the Applicant's assets were reduced in the month of [REDACTED] 2014.**

**The Department correctly determined that the Applicant's assets exceeded the asset limit from [REDACTED] 2013 through [REDACTED] 2014.**

**The Department correctly determined that the Applicant was ineligible for Medicaid for the period of [REDACTED] 2013 through [REDACTED] 2014.**

**The Department correctly denied the Appellant's [REDACTED] 2013, Long Term Care Medicaid application for the months of [REDACTED] 2013 through [REDACTED] 2014.**

### **DISCUSSION**

After reviewing the evidence and testimony presented, I find the Department's determination of the Medicaid effective date to be correct.

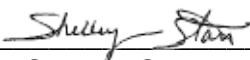
The record reflects that the Applicant's assets were within the Medicaid limits effective [REDACTED] 2014, the month in which the life insurance policy was surrendered and assets were reduced. Prior to [REDACTED] 2014, the total combined values for the cash surrender value of the life insurance policy, the IRA account and the checking accounts were available to the Applicant and exceeded the Medicaid limit.

The Appellant was appointed Conservator of the Person and Estate on [REDACTED] 2013. While the Appellant had events such as the birth of her second son and an ankle injury that affected her ability to reduce the Applicant's assets within a timely manner, I find no provisions in the regulations allowing for any considerations.

The Appellant's counsel argued that based on CGS 17b-261(c), the value of the life insurance should not have been counted towards eligibility as it should be considered an inaccessible asset. I disagree and find that the value of the life insurance was clearly accessible. The record reflects that it took less than two months to liquidate the assets once the Appellant received approval to do so from the Probate court.

**DECISION**

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

  
\_\_\_\_\_  
Shelley Starr  
Hearing Officer

cc: Phil Ober, Operations Manager, New Britain 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 06105-3725. 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.

