

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 # 651324

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2014, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") denying her benefits under the Medicaid for Long Term Care program for the period of ██████████ 2013, through ██████████ 2013, because the value of her assets was more than the amount allowed for this program.

On ██████████ 2014, the Appellant requested an administrative hearing to contest the Department's decision to deny such benefits.

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 conservator requested to reschedule the administrative hearing.

On ██████████ 2014, the OLCRAH issued a notice scheduling the administrative hearing for ██████████ 2015.

On ██████████ 2015, the Appellant's conservator requested to reschedule the administrative hearing.

On [REDACTED] 2015, the OLCRAH issued a notice scheduling the administrative hearing for [REDACTED] 2015.

On [REDACTED] 2015, the Appellant's conservator requested to reschedule the administrative hearing.

On [REDACTED] 2015, the OLCRAH issued a notice scheduling the administrative hearing for [REDACTED] 2015.

On [REDACTED] 2015, 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 [REDACTED], the Appellant's conservator
Barbara Brunner, Eligibility Services Specialist, Department's representative
Lorraine Crowe, Eligibility Services Worker, Department's representative
Roberta Gould, Hearing Officer

The hearing record was held open for the submission of additional evidence. The record closed on [REDACTED] 2015.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Appellant's benefits under the Medicaid for Long Term Care program for the period of [REDACTED] 2013, through [REDACTED] 2013, was correct.

FINDINGS OF FACT

1. The Appellant is a recipient of the Medicaid program. (Hearing summary)
2. The Appellant entered Village Crest long-term care facility on [REDACTED] 2008. (Hearing summary)
3. On [REDACTED] 2012, Connecticut Probate Court appointed [REDACTED] Esquire as the Appellant's Conservator of the Estate. (Exhibit 12: Fiduciary's probate certificate)
3. On [REDACTED] 2013, the Appellant applied for Medicaid benefits to cover the cost of her stay in the long-term care facility. (Exhibit 2: W-1F Application for assistance and Hearing summary)
4. The Appellant is the owner of M&T Bank account numbers [REDACTED] and [REDACTED]. (Exhibit 5: Bank account statements and Hearing summary)
5. On [REDACTED] 2013, the Appellant's conservator issued a check from M&T bank

account number 1 [REDACTED] in the amount of \$6,491.73 for payment to Village Crest long-term care facility. (Exhibit 13: Bank statement and Exhibit 14: Documentation of [REDACTED]/13 withdrawal and Department's testimony)

6. On [REDACTED] 2013, the Appellant's conservator sent a letter to the Department regarding the Appellant's need for a pre-paid burial plan. (Exhibit 4: Correspondence from conservator)
7. On [REDACTED] 2013, the Department sent the Appellant a W-1348 Verification We Need form requesting bank account information as well as other documentation. The requested information was due back by [REDACTED] 2013. (Exhibit 3: W-1348's)
8. The Department received some of the requested information. (Hearing record)
9. On [REDACTED] 2013, the Department sent the Appellant a W-1348 Verification We Need form requesting bank account information as well as other documentation. The requested information was due back by [REDACTED] 2013. (Exhibit 3)
10. The Department received some of the requested information. (Exhibit 4 and Hearing record)
11. On [REDACTED] 2013, the Department sent the Appellant a W-1348 Verification We Need form requesting bank account information as well as other documentation. The requested information was due back by [REDACTED] 2013. (Exhibit 3)
12. The Department received some of the requested information. (Exhibit 4 and Hearing record)
13. On [REDACTED] 2013, the Department sent the Appellant a W-1348 Verification We Need form requesting bank account information as well as other documentation. The requested information was due back by [REDACTED] 2013. (Exhibit 3)
14. The Department received some of the requested information. (Exhibit 4 and Hearing record)
15. On [REDACTED] 2013, the Department sent the Appellant a W-1348 Verification We Need form requesting bank account information as well as other documentation. The requested information was due back by [REDACTED] 2013. (Exhibit 3)
16. The Department received some of the requested information. (Hearing record)
17. On [REDACTED] 2013, the Department sent the Appellant a W-1348 Verification We Need form requesting bank account information as well as other documentation. The requested information was due back by [REDACTED] 2013. (Exhibit 3)
18. The Department received some of the requested information. (Exhibit 4 and

Hearing record)

19. On [REDACTED] 2013, the Appellant's conservator issued a check from the Appellant's M&T bank account in the amount of \$1,484.65 for payment to Village Crest long-term care facility. (Exhibit 15: Bank statement and copy of check)
19. On [REDACTED] 2013, the Department sent the Appellant a W-1348 Verification We Need form requesting bank account information as well as other documentation. The requested information was due back by [REDACTED] 2013. (Exhibit 3)
20. The Department received some of the requested information. (Exhibit 4 and Hearing record)
21. On [REDACTED] 2013, the Connecticut Probate Court ordered that [REDACTED] Esquire be given access to the M&T bank accounts # [REDACTED] and # [REDACTED] (Exhibit 16: Court of Probate fiduciary certificate)
22. On [REDACTED] 2013, the Appellant's conservator issued a check from the Appellant's M&T bank account in the amount of \$284.40 for payment to Village Crest long-term care facility. (Exhibit 17: Copies of checks)
23. On [REDACTED] 2013, the Appellant's conservator issued a check from the Appellant's M&T bank account in the amount of \$5,400.00 for payment to [REDACTED] Funeral Home. (Exhibit 17: Copies of checks)
24. On [REDACTED] 2013, the Department sent the Appellant a W-1348 Verification We Need form requesting bank account information as well as other documentation. The requested information was due back by [REDACTED] 2013. (Exhibit 3)
25. The Department received some of the requested information. (Exhibit 4 and Hearing record)
26. On [REDACTED] 2013, the Department sent the Appellant a W-1348 Verification We Need from You form requesting bank account information as well as other documentation. The requested information was due back by [REDACTED] 2013. (Exhibit 3)
27. From [REDACTED] of 2013, through [REDACTED] of 2013, the Appellant's M&T bank account balances exceeded the asset limit of \$1,600.00 for the Medicaid for long-term care program. (Exhibit 5 and Hearing summary)
28. On [REDACTED] 2014, the Department granted the Appellant Medicaid assistance effective [REDACTED] 2013, denying her Medicaid assistance for the period of [REDACTED] 2013, through [REDACTED] 2013, because the value of her assets exceeded the allowable limit. (Exhibit 8: EMS Notice, Exhibit 11: EMS assistance status screens

and Hearing summary)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the Medicaid program.
2. UPM § 1505.35(B) provides that the Department notifies applicants of:
 1. any actions taken on applications; and
 2. when applications are not acted upon within the established time limits.
3. The Department correctly notified the Appellant of all actions taken on her pending application.
4. Uniform Policy Manual ("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:
 - a. available to the unit; or
 - b. deemed available to the unit.
5. 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.
6. UPM § 4015.05(B) provides that regarding inaccessible assets:
 1. The burden is on the assistance unit to demonstrate that an asset is inaccessible.
 2. For all programs except Food Stamps, in order for an asset to be considered inaccessible, the assistance unit must cooperate with the Department, as directed, in attempting to gain access to the asset.
 - a. If the unit does not cooperate as described above, the asset is considered available to the unit, and the unit's equity in the asset is counted toward the asset limit.
 - b. If the unit's equity in the asset is unknown, the non-cooperative adult member of the unit is ineligible for assistance.
7. The Department correctly determined that the Appellant's M&T bank accounts were accessible to the Appellant and her conservator.
8. UPM § 5515.05(C)(2)(a) and (b) provides in part that the needs group for an MAABD unit includes the following: the applicant or recipient and the spouse of the applicant or recipient when they share the same home regardless of whether one or both are

applying for or receiving assistance.

9. UPM § 4005.10(A)(2)(b) provides that in the MAABD program, the asset limit is \$1600 for a needs group of one person.
10. UPM § 4005.15(B)(2)(b) provides that for recipients, if the assistance unit does not reduce its excess assets to an allowable level by the end of the month the excess first occurs, the unit is ineligible as of the first day of the following month and remains ineligible until the first day of the month in which the unit properly reduces its assets to an allowable level.
11. The Department was correct when it determined that the Appellant's assets exceeded the limit of \$1,600.00 from [REDACTED] of 2013, through [REDACTED] of 2013.
12. The Department was correct when it denied the Appellant's Medicaid for Long Term Care benefits for [REDACTED] 2013, through [REDACTED] 2013, because her assets exceeded the allowable limit.

DISCUSSION

After reviewing the evidence and testimony presented at this hearing, I find that the Department's action to deny the Appellant's request for Medicaid is upheld. Regulations provide that an asset is available to the individual when the individual has the legal right, authority or power to obtain the asset. The Appellant's conservator indicated that she had difficulty in accessing funds from the Appellant's M&T bank accounts because they were located in New York, which did not recognize Connecticut probate court certificates of conservatorship. However, the conservator did not make the Department aware of any difficulty in accessing these accounts during the application process and she was able to withdraw funds from these accounts in [REDACTED] of 2013, [REDACTED] of 2013 and [REDACTED] of 2013. On [REDACTED] 2013, she made a payment from the Appellant's bank account to a funeral home, thus reducing assets to within the allowable limit. As such, the Department was correct when it determined that the Appellant's M&T bank accounts were available and accessible to her for purposes of determining Medicaid eligibility and when it denied her application for Medicaid because her assets exceeded the asset limit of \$1,600.00 for the period of [REDACTED] 2013, through [REDACTED] 2013.

DECISION

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

Roberta Gould

Roberta Gould
Hearing Officer

PC: Carol Sue Shannon, Social Services Operations Manager, DSS Danbury
Barbara Brunner, Eligibility Services Specialist, DSS Danbury

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.