STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3725

[redacted] 2015
Signature Confirmation

REQUEST #655200

CLIENT ID #[redacted]

NOTICE OF DECISION

PARTY

[redacted]
C/O [redacted]
[redacted]
[redacted]

PROCEDURAL BACKGROUND

On [redacted] 2014, Department of Social Services (the "Department") sent [redacted] (the "Appellant") a Notice of Denial stating that her application for medical assistance under the Medicaid program had been denied, because the value of her countable assets exceeded the allowable asset limit for the Medicaid program.

On [redacted] 2014, the Appellant's representative, **Attorney** [redacted], requested an administrative hearing on behalf of the Appellant to contest the Department's denial of her application for medical assistance under the Medicaid program.

On [redacted] 2015, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice of Administrative Hearing scheduling a hearing for [redacted] 2015 @ 11:00 AM.

On [redacted] 2015, in accordance with sections 17b-60, 17b-61, and 4-176e to 4-184, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing to address the Department's denial of the Appellant's application for medical assistance under the Medicaid program.

The following individuals were present at the hearing:

[redacted] Appellant's Representative/Daughter
Attorney [redacted] Counsel for the Appellant
Michael Stebe, Representative for the Department
Hernold C. Linton, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Appellant is ineligible for medical assistance under the Medicaid program, due to excess assets.

FINDINGS OF FACT

1. On [redacted] 2013, the Department received the Appellant's application for medical assistance under Medicaid program. (Hearing Summary)

2. In [redacted] 2013, the Appellant was admitted to Nathaniel Witherell, which is a long-term care facility ("LTCF").

3. The Appellant is seeking Medicaid eligibility effective [redacted] 2013, to cover the cost of her stay in a LTCF. (Hearing Summary; Dept.'s Exhibit K: [redacted]/14 Notice of Action)

4. On [redacted] 2013, the Department sent the Appellant's representative Form W-1348LTC ("Verification We Need") requesting additional information needed to determine the Appellant's eligibility for medical assistance under Medicaid program. (Hearing Summary; Dept.'s Exhibit B: Form W-1348, dated [redacted]/13)

5. The Department sent the Appellant's representative Form W-1348 LTC Addendum providing hints to speed up the application process. (Hearing Summary; Dept.'s Exhibit B)

6. The Department informed the Appellant's representative that there would be no Medicaid eligibility for the Appellant in any month in which the Appellant's assets exceeded $1,600.00. (Hearing Summary; Dept.'s Exhibit # B)

7. On [redacted] 2013, the Department received some of the requested information needed to determine the Appellant's eligibility for medical assistance under Medicaid program. (Hearing Summary)

8. On [redacted] 2013, the Department sent the Appellant's representative another W-1348LTC requesting the remaining information still needed to determine the Appellant's eligibility for medical assistance under Medicaid program. (Hearing Summary; Dept.'s Exhibit C: Form W-1348, dated [redacted]/13)

9. The Department sent the Appellant's representative another W-1348 LTC Addendum providing hints to speed up the application process. (Hearing Summary; Dept.'s Exhibit C)

10. The Department again informed the Appellant's representative that there would be no Medicaid eligibility for the Appellant in any month in which the Appellant's assets exceeded $1,600.00. (Hearing Summary; Dept.'s Exhibit C)

11. On [redacted] 2014, the Department sent the Appellant's representative its seventh W-1348LTC requesting the remaining information still needed to determine the

Appellant's eligibility for medical assistance under Medicaid program. (Hearing Summary; Dept.'s Exhibit H: Form W-1348, dated [redacted]/14)

12. On [redacted] 2014, the Department received the balance of the requested information that was needed to determine the Appellant's eligibility for medical assistance under Medicaid program. (Hearing Summary)

13. On [redacted] 2014, the Department denied the Appellant's application for medical assistance under the Medicaid program, claiming that the value of her countable assets exceeded the allowable asset limit for the program. (Hearing Summary; Dept.'s Exhibit K: [redacted]/14 Notice of Action)

14. For the period of [redacted] 2013 through [redacted] 2014, the Appellant owned an account at UBS Financial Services valued at $4,370.00. (Hearing Summary; Dept.'s Exhibit I: Statement for UBS Account)

15. For the period of [redacted] 2013 through [redacted] 2014, the Appellant had access to the funds in her account at UBS Financial Services. (Hearing Summary)

16. The Appellant is the legal owner of the funds in her account at UBS Financial Services listing her daughter as joint owner. (Hearing Summary)

17. For the period of [redacted] 2013 through [redacted] 2014, the Appellant used the funds in her account at UBS Financial Services to meet her needs and for her general support. (Hearing Summary)

18. The allowable asset limit for the Medicaid program is $1,600.00 per month. (Hearing Summary)

19. The Appellant did not transfer the funds in her account at UBS Financial Services to her daughter as payment for the care and support that she received from her daughter. (See Facts # 1 to 18; Dept.'s Exhibit I)

20. The Appellant expired on [redacted] 2014. (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. Uniform Policy Manual ("UPM") Section 1560.10 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

3. UPM § 4005.05(A) provides that for every program administered by the Department, there is a definite asset limit.

4. 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 § 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.

7. UPM § 4005.05(D)(2) 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, unless the assistance unit is categorically eligible for the program and the asset limit does not apply (cross reference: 2500 Categorically Eligibility Requirements).

8. UPM § 4005.10 provides that the Medicaid asset limit for a needs group of one is $1,600.00 per month.

9. UPM § 4005.15(A)(2) provides that 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.

10. UPM § 4015.05(A)(1) 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.

11. UPM § 4015.05(B)(1) provides that the burden is on the assistance unit to demonstrate that an asset is inaccessible.

12. UPM § 4099.30(A) provides that the assistance unit must verify the following for the Department to evaluate each asset held by the assistance unit. (2) the asset's status as either inaccessible or excluded, if there is a question, as described in 4015 and 4020, respectively.

13. The equity in the Appellant’s account at UBS Financial Services was accessible and available to meet the Appellant’s needs and general support.

14. For the period of [redacted] 2013 through [redacted] 2014, the Appellant's countable assets exceeded the Medicaid asset limit of $1,600.00 per month.

15. The Department correctly denied the Appellant's request for Medicaid coverage for the period of [redacted] 2013 through [redacted] 2014, due to excess assets.

DISCUSSION

The Appellant's representative argued that the delay in the reducing the Appellant's countable assets was due to the Department's delay in the processing of the Appellant's application timely. However, the delay in the processing of the Appellant's application could be attributed to both the Appellant as well as to the Department. The Appellant's representative also claimed that the Appellant has unpaid bills that are in excess of the funds in her account held at UBS Financial Services, and therefore, her countable assets did not exceed the allowable asset limit for the Medicaid program. However, the policy does not allow for the consideration of unpaid bills to determine the equity value of her account held at UBS Financial Services. Nevertheless, the policy does allow for the Appellant to use the funds in her account at UBS Financial Services to pay her bills, during the time period at issue, to appropriately reduce her countable assets, but that was not the case in the Appellant's situation.

The Appellant's representative also argued that the funds in the joint account held with the Appellant represent payment for the care and support that she provided to the Appellant over the last eighteen years, prior to her institutionalization. However, the issue does not involve the imposition of a transfer of asset penalty, wherein providing care and support that prevented the Appellant's institutionalization could be taken into consideration.

The equity in the Appellant's account held at UBS Financial Services was always readily available for the Appellant's general support. Therefore, the undersigned finds the equity as available and accessible, as defined by relevant Medicaid policies. Therefore, for the period of [redacted] 2013 through [redacted] 2014, the Appellant's countable assets exceeded the Medicaid asset limit of $1,600.00 per month.

DECISION

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

Hernold C. Linton

Hernold C. Linton
Hearing Officer

Pc: **Alexis Kiss,** Social Service Operations Manager, DSS, R.O. # 32, Stamford

[redacted]

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.