

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 No # ██████████
Request # 655644

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 application for Long Term Care Medicaid benefits from ██████████ 2014 to ██████████ 2014 and granting her Long Term Care benefits from ██████████ 2014 through to ██████████ 2014 and in the month of ██████████ 2014.

On ██████████, 2014, the Appellant requested an administrative hearing to contest the decision 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 ██████████, 2015.

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 Representatives, Conservator and POA
Liza Morais, Department Representative,
Almelinda McLeod, Hearing Officer
The Appellant was not present.

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

STATEMENT OF THE ISSUE

The issue is whether the Department was correct in its determination of the Appellant's Long Term Care Medicaid benefits effective date and denial for months [REDACTED] through [REDACTED] 2014 .

FINDINGS OF FACT

1. The Appellant is a resident of [REDACTED]. She entered the facility on [REDACTED]/13. (Exhibit 1:W-1LTC application)
2. The Appellant is a widow. (Hearing testimony)
3. In [REDACTED] 2013, [REDACTED], the Appellant's daughter, became her Power of Attorney (POA). (Hearing Testimony)
4. On [REDACTED], 2014, the Appellant applied for Medicaid for Long Term Care assistance. The application was submitted by the Appellant's AREP and POA. (Exhibit #1, W1LTC application page 5 of 21 and Exhibit #13, [REDACTED]/14 Narrative).
5. The asset limit for Medicaid Long Term Care assistance is \$1600.00. (Department testimony)
6. In [REDACTED] 2014, the Appellant's POA became her conservator. (Testimony)
7. The Appellant receives \$1226.00 Social Security. (Exhibit #1, Page 7 of 21 and Hearing Record)
8. The Appellant has medical insurance through Anthem Blue Cross and Blue Shield ("Anthem BC/BS") and pays an annual premium of \$3081.00. (Exhibit 1, page 6 of 21 and Exhibit C, Anthem BC/BS premium bill)
9. The Anthem BC/BS annual payment for [REDACTED] 2014 through [REDACTED] 2014 was paid in full by the appellant. (Exhibit #8, page 3 of 18)

10. The Appellant's conservator was instructed to make the next annual Anthem BC/BS payment for [REDACTED] 2015 through to [REDACTED], 2015. The BC/BS premium of \$3081.00/ 12 months = \$256.75 was left in the 1st National bank of [REDACTED] to accumulate for the annual payment. (Hearing Testimony and Exhibit C, Anthem BC/BS bill)
11. On [REDACTED] 2014, the Department issued a W-1348 Verification We Need and Addendum form requesting proof of Citizenship, Copy of death certificate, proof of BC/BS premium amount and bank account information verification on Bank of America account # [REDACTED], 1st National Bank of [REDACTED] account # [REDACTED] and 1st national Bank of [REDACTED] # [REDACTED]. The requested information was due by [REDACTED] 2014. (Exhibit # 2, Verification We Need form)
12. The Department received some of the requested information. (Department's Testimony)
13. On [REDACTED], 2014/2015, the Department issued a second W-1348 requesting verification of deposits and withdrawals from various 1st National Bank accounts, Bank of America, verification of shares of WellPoint stocks, resident trust account from when it was opened, property deed or document proving real estate transfer within 5 years. This information was due by [REDACTED]/14. (Exhibit# 3, Verification We Need form)
14. On [REDACTED] 2014, the Department received some of the requested information. (Exhibit # 13, Narrative entry [REDACTED]/14)
15. On [REDACTED], 2014, the Department issued a W-1348 Verification We Need form requesting clarification of ownership of 1st National Bank of [REDACTED] deposit of \$100,846.29 into two accounts paid to the order of son [REDACTED], verification of withdrawals from 1st National Bank of [REDACTED], verification of when 1st National bank of [REDACTED] was opened, copy of check [REDACTED] from Bank of America checking account # [REDACTED], Copy of property deed proving transfer of assets within last 5 years, HUD-1 for condo sold in Florida., verification showing assets remain at \$1600 or below throughout the pending process. The information was due by [REDACTED], 2014. (Exhibit # 4, Verification We Need form)
16. On [REDACTED] 2014, the Department received some of the requested information. (Exhibit #3, Narrative entry [REDACTED]/14 & [REDACTED]/14)
17. On [REDACTED], 2014, the Department issued a W-1348 Verification We Need form requesting Bank of America account where \$100,846.29 came from, verification of ownership to 1st National Bank of [REDACTED]

account # [REDACTED] and account # [REDACTED] and verification showing assets remain at \$1600 or below throughout the pending process. This information was due by [REDACTED]/14. (Exhibit # 5, W-1348 ,Verification We Need form)

18. On [REDACTED], 2014, the Department received some of the requested information. Among the information submitted, the Appellant stated the annual BC/BS premium of \$3081.00 was pending and still in the 1st National bank of [REDACTED] bank account (Exhibit #3, Narrative entry [REDACTED]/14, Exhibit B, Cover letter response to W-1348.)
19. On [REDACTED], 2014, the Department issued a W-1348 Verification We Need form requesting updated bank statement from 1st National Bank of [REDACTED] or [REDACTED]/14 – current or closed, verification from 1st National Bank of [REDACTED] on ownership of account # [REDACTED] and account # [REDACTED], updated Bank of America bank statement on account # [REDACTED] for [REDACTED]/14, current or closed and verification showing assets remain at \$1600 or below throughout the pending process. The Department notified the Appellant that the BC/BS debt would not be deducted from the assets. (Exhibit # 6, Verification We Need form)
20. On [REDACTED] [REDACTED], 2014, the Department received all requested verifications and determined the Appellant's assets for the months of [REDACTED] 2014 through to [REDACTED] 2014 were the following:

Month	Bank of America [REDACTED] [REDACTED]	Resident trust account	1 st . Nat. bank of [REDACTED] # [REDACTED]	Total
[REDACTED] 2014	\$1423.33	\$60.00		\$1483.33
[REDACTED] 2014	\$1620.57	\$0.00	\$20.00- opened [REDACTED]	\$1640.57
[REDACTED] 2014	\$705.02	\$55.00	\$20.00	\$780.02
[REDACTED] 2014	\$698.02	\$10.00	\$1085.90	\$1793.92
[REDACTED] 2014	\$691.02	\$0.00	\$1495.49	\$2186.51
[REDACTED] 2014	\$684.02	\$70.00	\$1813.24	\$2567.26
[REDACTED] 2014	\$677.02	\$0.00	\$1930.99	\$2608.01
[REDACTED] 2014	\$657.03	\$151.00	\$2366.49	\$3174.52
[REDACTED] 2014	\$650.03	\$0.00	\$2366.49	\$3016.52
[REDACTED] 2014	\$643.03	\$0.00	\$3116.21	\$3759.24
[REDACTED] 2014	\$636.03	\$0.00	\$290.70	\$926.73

(Exhibit #7, Exhibit 8, Exhibit 9 and Exhibit 10: Asset Worksheet, Bank of America # [REDACTED] statements [REDACTED]/2014 through to [REDACTED]/2014, Resident trust, 1st National bank of [REDACTED] from [REDACTED]/2014 through [REDACTED]/2014)

21. On [REDACTED], 2014, the Appellant reduced her assets to below \$1600 for the months of [REDACTED] and [REDACTED] 2014 and in the month of [REDACTED] 2014. (Hearing Summary, Exhibit #7-Monthly Asset Worksheet)
22. The Appellant reduced the assets by paying \$3500.00 to [REDACTED] by the River with monies set aside for BC/BS premiums, purchasing an irrevocable funeral contract and purchasing some personal items. (Hearing testimony)
23. The Appellant's conservator arranged for the BC/BS monthly premium be deducted from the 1st National bank of [REDACTED] checking account effective [REDACTED] 2015. (Hearing Testimony and Exhibit B- Cover letter responses to W-1348)
24. The Appellant was over assets in months [REDACTED] through [REDACTED] 2014. (Hearing summary, Exhibit #7-Monthly Asset Worksheet , Exhibit 12- Asset screens)
25. The Department granted the appellant's application for nursing home cost effective [REDACTED]/14 for the eligible months of [REDACTED] and [REDACTED] 2014.

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 pursuant to Title XIX of the Social Security Act.
2. 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 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. UPM § 4005.10 (A) (2) (a) provides that the asset limit for AABD and MAABD- Categorically and Medically Needy for a needs group of one is \$1600.00.
5. UPM § 4005.15 (A) (2) MA, AABD Residents of Long Term Care Facilities provides 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.
6. UPM § 4005.15 (B)(2) (b) MA and AABD Residents of Long Term Care Facilities , provides that 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.
7. UPM § 1560.10 provides 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 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 determination of income eligibility in spenddown refer to Income Eligibility Section 5520; or;
 - D. the first of the calendar month following the month in which an individuals 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.
8. UPM § 4030.05 (B) Checking account provides that part of a checking account to be considered as a counted asset during a given month is calculated by subtracting the actual amount of income the assistance unit deposits into the account that month from the highest balance in the account for that month.
9. UPM § 4030.05 (C) provides money which is received as income during a month and deposited into a account during the month is not considered as asset for that month, unless the source of the money is: 1. An income tax refund; or 2. Cash received upon

transfer or sale of property ; or 3. A security deposit returned by the landlord.

10. The Department correctly reduced the 1st National bank of [REDACTED] account by the Appellant's Social Security income except for the month of [REDACTED] 2014.
11. The Department correctly did not exclude BC/BS premium left in the 1st National bank of [REDACTED] bank account from the asset.
12. UPM § 4026.05 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.
13. The Department correctly counted the Appellant's assets and determined the Appellant was over the \$1600.00 asset limit for the months of [REDACTED] 2014 through to [REDACTED] 2014.
14. The Department correctly granted the Appellant's LTC application for the months of [REDACTED] and [REDACTED] 2014 going forward when the assets were reduced to an allowable limit.

DISCUSSION

The Appellant's conservator testified that the BC/BS annual payment of \$3081.00 was due in [REDACTED] 2014 and was not aware that a monthly deduction from the checking account was possible. They allowed the equivalent of \$256.75 ($\$3081/12=\256.75) to be left in the 1st National bank of [REDACTED] account to accumulate to make that premium payment. However, there is no provision in Departmental regulations that would exclude monies set aside in the checking account from consideration because of the intent to make a payment on a bill; therefore the bank account and the full balance minus the Appellant's income is a countable asset.

DECISION

The Appellant's appeal is DENIED.

Almelinda McLeod
Hearing Officer

CC: Musa Mohamud, DSS Operations Manager, Hartford Regional office
Elizabeth Thomas, DSS Operations Manager, Hartford 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 Legal Counsel, Regulations, and Administrative Hearings, 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 his 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.