

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 # 670650

NOTICE OF DECISION

PARTY

██████████
██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████, 2014 the Department of Social Services (the "Department") sent ██████████ (the "Appellant"), authorized representative for her father, ██████████ (the "Applicant") a Notice of Action ("NOA") denying Long Term Care Medicaid benefits for the months of ██████████ 2013 through ██████████ 2015.

On ██████████ 16, 2015, the Appellant requested an administrative hearing to contest the denial of the Long Term Care Medicaid benefits as determined by the Department.

On ██████████, 2015, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice scheduling the administrative hearing for ██████████ 2015.

On ██████████ 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:

██████████ the Appellant,
██████████ friend of the Appellant
Janice Kopchick, Fair Hearing Liaison, Bridgeport DSS
Saya Miyakoshi, ESW, Department's representative
Maureen Foley-Roy, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny Medicaid for Long Term Care benefits was correct.

FINDINGS OF FACT

1. In [REDACTED] of 2012, Medicaid for Long Term care was granted for the Applicant's spouse and the Department determined that the Applicant could keep \$21,912 of the couple's assets. (Exhibit J: [REDACTED] case narrative)
2. In [REDACTED] of 2013, his home property at [REDACTED] was quit-claimed back to the Applicant. (Exhibit K: Quit claim documents)
3. In [REDACTED] of 2013, the cash value of the life insurance policy ending in [REDACTED] was \$2474.90. (Exhibit H: Prudential statement dated [REDACTED], 2013)
4. On [REDACTED], 2013, the Appellant, acting as authorized representative for her father, the Applicant, submitted an application for Medicaid for Long Term Care for him as he had been admitted to a skilled nursing facility.(Exhibit B: Application)
5. In [REDACTED] of 2013, at the time he applied for Medicaid for Long Term Care, the Applicant and his spouse had two life insurance policies with the Prudential Life Insurance Company with face values of \$5000 each. One of the policies had a cash surrender value of \$4144.00 and the other had a cash surrender value of \$2474.90.(Exhibit L: Monthly Asset Worksheet)
6. At the time of the application, the Applicant also had a life insurance policy with Gerber Life insurance policy with a face value of \$3162 and a cash surrender value of \$1906.69. (Exhibit L)
7. The cash surrender values of the life insurance policies remained the same from [REDACTED] of 2013 through the end of [REDACTED] 2014. (Exhibit L)
8. The combined total of all of the cash surrender values of the Applicant's three life insurance policies was \$8525.59. (Facts 5,6,and 7.)
9. In addition to his life insurance policies, at the time of the admittance to the facility and subsequent application for Medicaid for Long Term Care, the Applicant had three open bank accounts and property which had been quit claimed back to him on [REDACTED], 2013. (Exhibit K: Letter from Law Offices and Exhibit L)
10. On or about [REDACTED], 2013, the Department sent a W1348-Verification We Need list to the Applicant requesting verification of his life insurance policy and

copies of all bank statements from [REDACTED] of 2012 through the present. (Exhibit E1: W1348 with due date of [REDACTED], 2013)

11. On [REDACTED] 2013, the cash value of the Gerber Life Insurance Policy was \$1906.69. (Exhibit I: Letter from Gerber Life dated [REDACTED] 2013)
12. On [REDACTED] 2013, the cash value of the Applicant's Prudential life insurance policy was \$4,144.00. (Exhibit G: Prudential [REDACTED] documents)
13. On [REDACTED] 2013, a Department representative contacted the Appellant by telephone and answered questions that she had regarding the Applicant's property and life insurance policies. (Exhibit D: [REDACTED] case narrative)
14. On or about [REDACTED] 2013, the Department sent a W1348-Verification We Need list to the Applicant requesting bank statements and verification of cash value of specific life insurance policies. The list also stated that because both spouses were institutionalized, their assets needed to be less than \$3200 and that the life insurance policies would make them over assets for nursing home coverage. (Exhibit E2: Verification We Need listing with due date of [REDACTED], 2013)
15. On [REDACTED] 2014, the Applicant passed away. (Department's summary)
16. On [REDACTED], 2014, Prudential issued a check for \$5330.38, the proceeds of a death claim on policy ending in [REDACTED], to the Appellant which she deposited to a checking account. (Exhibit G: copy of check)
17. On [REDACTED], 2014, the Applicant's spouse passed away. (Appellant's testimony)
18. On [REDACTED], 2014, Prudential issued a check for the proceeds of a death claim on policy ending in [REDACTED] in the amount of \$5320.50 which the Appellant states has not been cashed. (Exhibit H: copy of check)
19. The Gerber life insurance policy has not been surrendered. (Exhibit I)
20. On [REDACTED], 2014, the Department denied the application for Medicaid for Long Term care because the Applicant's assets exceeded the allowable limit. (Exhibit M: Notice of Denial)

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") Section 4030 provides that the Department evaluates all types of assets available to the assistance unit when determining the unit's eligibility for benefits.
3. UPM § 4005.10 provides that the Medicaid asset limit for a needs group of one is \$1,600.00 per month.
4. UPM § 4005.05 provides for the definition of available assets and states that an available asset is cash or any item of value which is actually available to the individual or which the individual has the legal right, authority or power to obtain or to have applied for his or her general or medical support.
5. The Department correctly determined that the cash surrender value of the Applicant's and his spouse's life insurance policies was an asset available for his general 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 § 4030.30 C 1 and 2 provides that the cash surrender value of life insurance policies owned by the individual is counted towards the asset limit unless the total face value of all life insurance policies owned by the individual does not exceed \$1,500, in which case the cash surrender value of such policies is excluded.
8. The Department correctly determined that the cash surrender values of the Applicant's life insurance policies was a counted asset.
9. UPM § 4005.15 provides that in the Medicaid 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.
10. The Department correctly determined that the \$8525.59 cash surrender value of the Applicant's life insurance policies exceeded the allowable limit of \$1600 from of [REDACTED] of 2013 through the time of his death in [REDACTED] of 2013.
11. The Department correctly denied the Appellant's application for Long Term Care because his assets exceeded the allowable limit.

DISCUSSION

The Applicant's spouse had been admitted to a skilled nursing facility in 2012. At that time the majority of the couple's assets were deemed to belong to the Applicant for his support as he remained in his home in the community. Medicaid for Long Term care was granted for his spouse. In 2013, the Applicant was admitted to a skilled nursing facility. At that point, the Department's responsibility was to review the Applicant's assets, among other factors, and determine if he was eligible for Medicaid for Long Term care assistance to pay for his stay in the facility. The Applicant's assets included his home, three bank accounts, and three life insurance policies with cash surrender

values. The Appellant testified that their family's intention was to use proceeds from various life insurance policies to pay funeral expenses for her parents when the time came. She was under the mistaken impression that those intentions would make the cash value of the policies exempt. However, the life insurance policies were not specifically earmarked for funeral expenses and could have been cashed in at any time to meet her parents' needs, including paying the facility. The end result is that the cash surrender value of the Applicant's life insurance policies alone exceeded the allowable limit for Medicaid for Long Term Care assistance from the time of his application until his death and there is no eligibility.

It is important to note that in addition to the cash surrender values of the life insurance policies, and the two bank accounts, the Applicant owned property which had been quit claimed back to him in [REDACTED] of 2013. The Department did not address the issue of the property as an asset for this hearing.

DECISION

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

Maureen Foley-Roy

Maureen Foley-Roy,
Hearing Officer

- Pc: Poonam Sharma, Operations Manager, Bridgeport
- Fred Presnick, Operations Manager, Bridgeport
- Yecenia Acosta, Program Manager, Bridgeport
- Janice Kopchick, Fair Hearing Liaison, Bridgeport
- Saya Miyakoshi, ESW

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.