

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3730

██████████ 2015
Signature Confirmation

Client ID # ██████████
Request #690153

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2015, 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 through ██████████ 2014 and granting her Long Term Care benefits effective ██████████ 2014.

On ██████████ 2015, the Appellant requested an administrative hearing to contest the effective date 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, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice rescheduling the administrative hearing for ██████████ 2015.

On ██████████ 2015, in accordance with sections 17b-60, 17b-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:

[REDACTED] Appellant's daughter, Power of Attorney ("POA")
 Tammy Campanelli, Administrator, Amberwoods [REDACTED]
 Colleen Labrecque, Finance Office, Amberwoods [REDACTED]
 Emily Loveland, Department's Representative
 Tami Pelletier, Department's Representative
 Miklos Mencseli, Hearing Officer

The Appellant was not present.

STATEMENT OF THE ISSUE

The issue is the effective date of Long Term Care Medicaid benefits.

FINDINGS OF FACT

1. The Appellant is a resident of Amberwoods, she entered the facility on [REDACTED] 2013. (Exhibit A: W-1LTC application)
2. On [REDACTED] 2014, the Appellant applied for Medicaid for long term care assistance. The application was submitted by the Appellant's daughter. (Summary, Exhibit A)
3. The Appellant's daughter is her authorized representative and power of attorney. Listed also were [REDACTED] and [REDACTED] of [REDACTED] [REDACTED] on the application as individuals the Department is authorized to disclose information too. (Exhibit A, Testimony)
4. The Appellant reported her assets on Section I of the application. The Appellant had a Webster Bank checking account, three (3) John Hancock Life insurance policies totaling \$1500 in face value and a funeral contract with [REDACTED] Funeral Home for \$5400 irrevocable and \$5335 revocable burial. (Exhibit A)
5. The Department determined that the three John Hancock policies are exempt as countable assets as the total face value equals \$1500 (\$250.00 + \$250.00 + \$1000.00). (Exhibit E: John Hancock policies, Testimony)
6. The Department received several verifying documents with the Appellant's application. They included applicant verifications and verifications of her assets. The Appellant's funeral contract was part of the verifications received. (Exhibit V: Department's case narrative screen printout)
7. On [REDACTED] 2014, the Department sent the Appellant a W-1348LTC Verification We Need form requesting information needed to process the Appellant's application. The information was due by [REDACTED] 2014. (Summary, Exhibit B: W-1348LTC dated [REDACTED]-14)

8. On [REDACTED] 2014 and [REDACTED] 2014 the Department received verifications from the Appellant. (Summary, Exhibit V)
9. On [REDACTED] 2014, the Department reviewed the verifications provided by the Appellant. (Summary, Exhibit V)
10. The Department in reviewing the Appellant's Webster Bank checking account determined that a check for \$13,353.00 was issued to [REDACTED] Funeral Home. (Exhibit C: Webster Bank statement for period [REDACTED]-14 through [REDACTED]-14)
11. The amount differed from the amount listed on the Appellant's application. The total amount listed on the application was \$10,935.00. (Summary, Exhibit A)
12. The Department reviewed the funeral contracts and determined that in addition to the burial contract and burial space items a there was a third revocable contract for \$2,618.00. (Summary, Exhibit D4: Pre-Need Funeral agreement)
13. On [REDACTED] 2014, the Department sent [REDACTED] ([REDACTED] [REDACTED]) a W-1348LTC Verification We Need form requesting information needed to process the Appellant's application. The form stated that the \$2,618.00 revocable amount of the contract is counted toward the asset limit. The information was due by [REDACTED] 2014. (Summary, Exhibit F: W-1348LTC dated [REDACTED]-14)
14. On [REDACTED] 2014, [REDACTED] 2014 and [REDACTED] 2014 the Department received verifications from the Appellant. (Summary, Exhibit V)
15. On [REDACTED] 2014, the Department reviewed the verifications. They included the funeral contract already on file. The Department called [REDACTED] Funeral Home. They verified that the \$2,618.00 funeral contract is revocable. The funds can be returned to the Appellant. (Summary, Exhibit V, Testimony)
16. On [REDACTED] 2014, the Department sent [REDACTED] [REDACTED] [REDACTED] a W-1348LTC Verification We Need form requesting information needed to process the Appellant's application. The form stated that the \$2,618.00 revocable amount of the funeral contract would be returning to the Appellant. The funeral home would provide a copy of the revoked contract via fax. The information was due by [REDACTED] 2014. (Summary, Exhibit G: W-1348LTC dated [REDACTED]-14)
17. On [REDACTED] 2014, the Department received verification that the funeral contract was revoked and the funds were returned to the Appellant. (Summary, Exhibit H: revoked funeral contract with fund amount)

18. On [REDACTED] 2014, the Department sent [REDACTED] ([REDACTED]) a W-1348LTC Verification We Need form requesting information needed to process the Appellant's application. The information was due by [REDACTED] 2014. (Summary, Exhibit I: W-1348LTC dated [REDACTED]-14)
19. On [REDACTED] 2014 and [REDACTED] 2014 the Department received verifications from the Appellant. (Summary, Exhibit V)
20. On [REDACTED] 2014, the Department sent [REDACTED] ([REDACTED]) a W-1348LTC Verification We Need form requesting information needed to process the Appellant's application. The information was due by [REDACTED] 2014. (Summary, Exhibit J: W-1348LTC dated [REDACTED]-14)
21. On [REDACTED] 2014 the Department received verifications from the Appellant. (Summary, Exhibit V)
22. On [REDACTED] 2014, the Department sent [REDACTED] ([REDACTED]) a W-1348LTC Verification We Need form requesting information needed to process the Appellant's application. The information was due by [REDACTED] 2014. (Summary, Exhibit K: W-1348LTC dated [REDACTED]-14)
23. On [REDACTED] 2014 the Department received verifications from the Appellant. (Summary, Exhibit V)
24. On [REDACTED] 2015, the Department sent [REDACTED] ([REDACTED]) a W-1348LTC Verification We Need form requesting information needed to process the Appellant's application. The information was due by [REDACTED] 2015. (Summary, Exhibit L: W-1348LTC dated [REDACTED]-15)
25. On [REDACTED] 2015 the Department received verifications from the Appellant. (Summary, Exhibit V)
26. The Appellant provided Webster Bank checking account statement for the period of [REDACTED] 2014 through [REDACTED] 2014. The statement verified that the Appellant received \$2,677.55 for the funeral contract and issued check [REDACTED] for \$2,677.55 to Amberwoods of [REDACTED]. (Summary, Exhibit M: Webster bank statement for [REDACTED]-14 to [REDACTED]-14)
27. On [REDACTED] 2015, the Department sent [REDACTED] ([REDACTED]) a W-1348LTC Verification We Need form requesting information needed to process the Appellant's application. The information was due by [REDACTED] 2015. (Summary, Exhibit N: W-1348LTC dated [REDACTED]-15)
28. On [REDACTED] 2015 the Department received verifications from the Appellant. (Summary, Exhibit V)

29. On [REDACTED] 2015, the Department reviewed the verifications. The Appellant provided her Webster Bank statement from [REDACTED] 2014 through [REDACTED] 2015. The ending balance is \$101.27. Based on this bank statement and the previous month's statement the Department determined the Appellant is asset eligible effective for [REDACTED] 2014. (Summary, Exhibit O: Webster Bank statement for [REDACTED]-14 to [REDACTED]-15, Exhibit V, Testimony)
30. The Department continued to process the Appellant's application requesting additional verifications. (Summary, Exhibit V)
31. On [REDACTED] 2015, [REDACTED] 2015, [REDACTED] 2015, [REDACTED] 2015, [REDACTED] 2015, the Department sent [REDACTED] ([REDACTED] [REDACTED] a W-1348LTC Verification We Need form requesting information needed to process the Appellant's application. (Summary, Exhibit P: W-1348LTC dated 2-6-15, Exhibit Q: W-1348LTC dated [REDACTED]-15, Exhibit R: W-1348LTC dated [REDACTED]-15, Exhibit S: W-1348LTC dated [REDACTED]-15, Exhibit T: [REDACTED]-15)
32. The Department received verifications from the Appellant on [REDACTED]-15, [REDACTED]-15, [REDACTED]-15, [REDACTED] 15, [REDACTED]-15, [REDACTED]-15, [REDACTED]-15, [REDACTED]-15 and [REDACTED]-15. (Summary, Exhibit V)
33. On [REDACTED] 2015, the Department sent the Appellant a notice of approval granting the Appellant Medicaid for long term care assistance effective for [REDACTED] 2014. The first month the Appellant was under the asset limit for the program. (Summary, Exhibit U: NOA dated [REDACTED]-15, Exhibit V, Testimony)
34. The Appellant's daughter, POA is seeking a [REDACTED] 2014 date of eligibility. (Testimony)
35. The Appellant was private pay until the date of her application. (Testimony)
36. The Appellant's representatives were not notified until [REDACTED] 2014 that the \$2,618.00 revocable amount of the funeral contract is counted toward the asset limit. (Testimony)
37. The Appellant's representatives complied with the Department's request as soon as they were notified and received the funds to issue a check to Amberwoods to be below the asset limit. (Testimony)

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) § 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.
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 § 4005.05 (D) provides that an assistance unit is not eligible for benefits under a particular program if the units equity in counted assets exceeds the asset limit for the particular program.
5. UPM § 4030.30 discusses the treatment of life insurance policies as assets.
6. UPM § 4030.30(A) provides that for all programs: 1. The owner of a life insurance policy is the insured unless otherwise noted on the policy, or if the insurance company confirms that someone else, and not the insured, can cash in the policy; and 2. Policies such as term insurance policies having no cash surrender value are excluded assets.
7. 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.
8. The Department correctly determined that the Appellant's three (3) John Hancock policies are excluded assets as the total face value did not exceed \$1500.00.
9. UPM § P-4030.15 provides for Burial Funds, Burial Plots and Burial Funds. Irrevocable Burial Funds are excluded regardless of their value. If purchased in Connecticut up to \$5,400 is excluded.
10. The Department correctly determined the Appellant's irrevocable funeral contract for \$5,400.00 with ██████ Funeral Home is an excluded asset.
11. UPM § 4030.10 provides for Burial Funds, Burial Plots and Burial Funds.
 - A. Burial Funds
 1. All Programs Except Food Stamps

- a. A burial fund in an amount up to \$1,800 per assistance unit member is excluded.
 - b. The \$1,800 exclusion is reduced by:
 - (1) any amount in an irrevocable burial fund available to meet burial expenses; and
 - (2) the face value of the assistance unit member's life insurance policies if the cash surrender value of such policies is excluded.
12. The Department correctly determined that the Appellant's revocable contract in the amount of \$2,618.00 is a countable asset as the Appellant has an irrevocable contract for \$5,400.00 and life insurance policies with a total face value of \$1,500.00.
13. UPM § 4005.10(A)(2)(a) provides that the asset limit for Medicaid for a needs group of one is \$1600.00.
14. UPM 4030.05 provides for treatment of assets and specific types of assets.
- (B) Checking Account
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.
15. The Department correctly determined that the Appellant became asset eligible based on the Webster bank statements for the period of [REDACTED] 2014 through [REDACTED] 2015.
16. 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.
17. UPM § 1560.10 (A) provides for begin dates of Medicaid Assistance. The beginning date of assistance for Medicaid may be one of the following: 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.
18. The Department correctly determined that the Appellant's Medicaid eligibility begin date is [REDACTED] 2014, the first day of the month in which assets were reduced below the asset limit for the program.

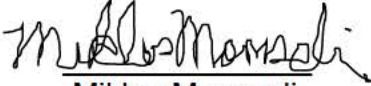
DISCUSSION

The Department has no explanation as to why there was a delay between the W-1348LTC notices. The Appellant did act as quickly as possible once it was informed that the revocable contract is an asset. There were discrepancies on both sides. The Department should have determined the revocable contract was an available asset at the time of application as the funeral contracts were submitted. The Appellant's representative who submitted the application on her behalf did not correctly list the contract total value on the application. They should have realized the revocable part of the contract is a countable asset. The asset was available to the Appellant and is a countable asset.

The Department cannot grant eligibility until the first day of the month in which the applicant reduces its equity in counted assets to within the asset limit. The Department correctly determined the Appellant is eligible effective for [REDACTED] 2014.

DECISION

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


Miklos Mencseli
Hearing Officer

C: Musa Mohamud, Operations Manager, DSS R.O. #10 Hartford

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.

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.