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 #700077

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 2015 through 2015 and granting her Long Term Care benefits effective 2015.

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 @

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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
[REDACTED], Appellant's niece, Authorized Representative ("AREP")
Emily Loveland, Department's Representative
Karonesa Logan, Department's Representative
Miklos Mencseli, Hearing Officer

STATEMENT OF THE ISSUE

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

FINDINGS OF FACT

1. The Appellant entered Riverside Health and Rehabilitation Center on [REDACTED] 2014. (Summary, Exhibit 8: Department's case narrative screen printout, Testimony)

2. On [REDACTED] 2015, the Department received the Appellant's application for the Home Care Waiver for Adults program. (Summary, Exhibit 2: W-1LTC application received [REDACTED]15, Exhibit 8)

3. The Appellant reported her assets on Section I of the application. The Appellant had Webster Bank accounts, funeral contract for $5,000.00 and life insurance policy for $15,000.00. (Exhibit 2)

4. On [REDACTED] 2015, the Department sent the Appellant's Power of Attorney and AREP from CCCI Access Agency 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 3: W-1348LTC dated [REDACTED]15)

5. On [REDACTED] 2015, the Department denied the Appellant's application for failure to provide verifications. (Exhibit 8)

6. On [REDACTED] 2015, the Appellant's AREP called the Department regarding the denial. The AREP stated all documents were submitted to the CCCI Access Agency. After review the Department rescreened the Appellant's application back to the [REDACTED] 2015 application date. (Exhibit 8)

7. On [REDACTED] 2015, the Department sent the Appellant's AREP a W-1348LTC Verification We Need form requesting information needed to process the Appellant's application. The information was due by [REDACTED] 2015. (Exhibit 4: W-1348LTC dated [REDACTED]15)

8. On [REDACTED] 2015 and [REDACTED] 2015 the Department received verifications from the Appellant's AREP. (Exhibit 8)

9. On [redacted] 2015, the Department reviewed the verifications received from the Appellant AREP. (Exhibit 8)

10. On [redacted] 2015, the Department sent the Appellant's AREP a W-1348LTC Verification We Need form requesting information needed to process the Appellant's application. The information was due by [redacted] 2015. (Exhibit 5: W-1348LTC dated [redacted]-15)

11. On [redacted] 2015, [redacted] 2015 and [redacted] 2015 the Department received verifications from the Appellant. (Exhibit 8)

12. On [redacted], the Department reviewed the verifications provided by the Appellant. (Exhibit 8)

13. On [redacted] 2015, the Department sent the Appellant's AREP a W-1348LTC Verification We Need form requesting information needed to process the Appellant's application. The information was due by [redacted] 2015. (Exhibit6: W-1348LTC dated [redacted]-15)

14. The Department reviewed the Appellant's assets. The Department determined the Appellant has three (3) Webster Bank accounts and one Mutual of Omaha Life Insurance policy with a face value of $15,000.00 (cash value - $6,131.55). (Exhibit 7: Monthly asset worksheet with bank statements and Mutual of Omaha documentation)

15. The Appellant received $6,131.55 from the Mutual of Omaha policy. (Exhibit 7: check dated [redacted]-15)

16. The funds were deposited into the Appellant's Webster checking account on [redacted] 2015. (Exhibit 7: Webster bank statement for the period of [redacted] 2015 through [redacted] 2015)

17. The Appellant's AREP used the funds to reimburse herself as she was using her own funds to pay the Appellant's homemaker bills and nursing home cost. (Exhibit 8, Testimony)

18. The Appellant's AREP provided a monthly ledger for the period of [redacted] 2014 through [redacted] 2015 and her MasterCard statement for the period of [redacted] 2014 through [redacted] 2015 as verifications of the payments made. (Appellant's Exhibits A & B)

19. The Appellant's AREP provided the billing statements for Companions & Homemakers and Riverside Health and Rehab Center with the payments made to each provider. (Appellant's Exhibits C & D)

20. Based on the Webster Bank statement for the period of [redacted] 2015 through [redacted] 2015 after subtracting out the Appellant's income (Social Security & pension) the Department determined the Appellant is asset eligible effective for [redacted] 2015. (Summary, Exhibit 7: Webster Bank statement for [redacted]-15 to [redacted]15, Exhibit 8, Testimony)

21. On [redacted] 2015, the Department sent the Appellant a notice of approval granting the Appellant Medicaid for long term care assistance effective for [redacted] 2015. The first month the Appellant was under the asset limit for the program. (Exhibit 8, Testimony)

22. The Appellant's AREP is seeking a [redacted] 2015 date of eligibility. (Testimony)

23. In [redacted] 2015, the Appellant left Riverside Health and Rehab Center facility returning back to living in the community.

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. The Department correctly determined that the Mutual of Omaha policy was an available asset and that the applicant had the legal right, authority or power to obtain the asset.

6. UPM § 4030.30 discusses the treatment of life insurance policies as assets.

7. 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.

8. 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.

9. The Department correctly determined that the Mutual of Omaha insurance policy had a face value exceeding $1500.00, and that the policy's cash surrender value was therefore counted toward the asset limit.

10. On ████ 2015, the Appellant's AREP deposited $6,131.55 into the Appellant's Webster checking account. That is the amount of the cash value check issued by Mutual of Omaha.

11. UPM § 4005.10(A)(2)(a) provides that the asset limit for Medicaid for a needs group of one is $1600.00.

12. 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.

13. The Department correctly determined that the Appellant became asset eligible based on the Webster bank statements for the period of ████ 2015 through ████ 2015.

14. 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.

15. 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.

16. The Department correctly determined that the Appellant's Medicaid eligibility begin date is ████ 2015, the first day of the month in which assets were reduced below the asset limit for the program.

DISCUSSION

The Appellant's AREP provided documentation to substantiate her statements that she paid for the Appellant's expenses. The MasterCard statements clearly show payments made to Companions & Homemakers. Also provided a receipt for a payment made to Riverside Health and Rehab Center. The cash value received from the insurance company that the AREP used to reimburse herself does not cover in total the expenses she paid out for the Appellant. However, the assets or funds are in the Appellant's name and she is not below the asset limit until 2015. The Department correctly determined the assets are available to the Appellant; she had the legal right and authority to obtain the 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 2015.

DECISION

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

Miklos Mencseli
Hearing Officer

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

<u>RIGHT TO REQUEST RECONSIDERATION</u>

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 <u>specific</u> grounds for the request: for example, indicate <u>what</u> error of fact or law, <u>what</u> new evidence, or <u>what</u> 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.

<u>RIGHT TO APPEAL</u>

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.