

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 # 700911

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") discontinuing her benefits under the Medicaid for Long Term Care program because the value of her assets was more than the amount allowed for this program.

On ██████████, 2015, the Appellant requested an administrative hearing to contest the Department's decision to discontinue such benefits.

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

On ██████████ 2015, the Appellant's representative, Attorney ██████████, requested to reschedule the administrative hearing.

On ██████████ 2015, the 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:

██████████, Appellant's daughter and Conservator
Attorney ██████████, Attorney for the Appellant
██████████, Appellant's son-in-law
Ellen Croll, Eligibility Services Specialist, Department's representative
Roberta Gould, Hearing Officer

The hearing record was held open for the submission of additional evidence. The record closed on ██████████, 2015.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to discontinue the Appellant's benefits under the Medicaid for Long Term Care program effective ██████████ 2015, was correct.

FINDINGS OF FACT

1. The Appellant was a recipient of the Medicaid program. (Hearing summary)
2. The Appellant was receiving assistance for herself only. (Hearing record)
3. The Appellant is a resident of Whitney Manor long-term care facility. (Hearing record)
4. On ██████████ 2015, Connecticut Probate Court decreed that the Appellant's property at ██████████ be sold for the sum of \$135,000.00 and that the proceeds from the sale of the estate be held until the filing by the fiduciary and approval by the Court. (Exhibit 8: CT Probate Court decree)
5. On ██████████, 2015, the Appellant sold her house located at ██████████. (Exhibit 11: Settlement statement and Hearing summary)
6. The Appellant's proceeds from the sale of her home were \$74,767.21. (Exhibit 3: EMS asset screen, Exhibit 11 and Hearing summary)
7. On ██████████, 2015, the Department discontinued the Appellant's Medicaid for Long Term Care effective ██████████ 2015, because the value of her assets exceeded the allowable limit. (Exhibit 1: Notice of Discontinuance dated ██████████/15 and Department's summary)
8. On ██████████, 2015, a public assistance consultant for the Department determined that the proceeds from the sale of the Appellant's home property were an asset that is available to her and that she is over the asset limit for the Medicaid program until her assets are reduced. (Exhibit 12: E-mail dated ██████████/15)
9. In ██████████ of 2015, the Appellant's conservator filed a final financial report with the CT Probate Court regarding the Appellant's expenses and claims against her estate

for the period of [REDACTED] 2015, through [REDACTED], 2015. (Exhibit 4: Conservator's financial report)

10. On [REDACTED] 2015, the Appellant's real estate proceeds from the sale of her house were distributed to her conservator. (Exhibit 9: CT Probate court decree)

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") § 4005.05(B)(1) provides that the Department counts the assistance units 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.
3. UPM § 4005.05(D) provides that 1. 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; and 2. 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 requirement does not apply (cross reference: 2500 Categorical Eligibility Requirements).
4. UPM § 5515.05(C)(2) a and b provides in part that the needs group for an MAABD unit includes the following: the applicant or recipient and the spouse of the applicant or recipient when they share the same home regardless of whether one or both are applying for or receiving assistance.
5. UPM § 4005.10(A)(2)(a) provides that in the MAABD program the asset limit is \$1600 for a needs group of one.
6. UPM § 4005.15(B)(2)(b) provides that for recipients, 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 § 4015.10(A)(1) provides that property in probate is inaccessible to an individual only in the case where he or she has an interest in a decedent's estate that is undergoing administration provided that:
 - a. the individual does not have the legal right to make the assets available

until the probate court completes such administration; and

- b. the individual takes reasonable steps to ensure that the administration of the decedent estate is not unduly prolonged.
8. In [REDACTED] of 2015, the Appellant had countable assets of \$74,767.21.
 9. The Department was correct when it determined that the Appellant's assets of \$74,767.21 exceeded the limit of \$1600.
 10. The Department was correct when it discontinued the Appellant's Medicaid for Long Term Care benefits effective [REDACTED], 2015, because her assets exceeded the allowable limit.

DISCUSSION

After reviewing the evidence and testimony presented at this hearing, I find that although the Appellant's proceeds from the sale of her house were held until the filing by the fiduciary and approval by the Court until [REDACTED] of 2015, Department policy states that the asset was considered accessible and available to her when she sold the home in [REDACTED] of 2015. The Department was correct when it discontinued her Medicaid assistance for long-term care effective [REDACTED], 2015, because her assets exceeded the asset limit.

DECISION

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

Roberta Gould

Roberta Gould
Hearing Officer

PC: Brian Sexton, Social Services Operations Manager, DSS New Haven
Lisa Wells, Social Services Operations Manager, DSS New Haven
Bonnie Shizume, Social Services Program Manager, DSS New Haven
Ellen Croll, Eligibility Services Specialist, DSS New Haven

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.