

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 #705234

NOTICE OF DECISION

PARTY

██████████
C/O Atty. ██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2015, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a notice of action granting her Long Term Care ("LTC") benefits effective ██████████ 2015.

On ██████████ 2015, the Appellant requested an administrative hearing to contest the effective date of the LTC 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, OLCRAH, at the request of the Appellant's POA, rescheduled 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:

██████████, Appellant's Power of Attorney
 ██████████ Appellant's Power of Attorney
 Attorney ██████████, Appellant's Counsel
 Tony Martinelli, Arden House
 Jacquelyn Mastracchio, Department's Representative
 Christopher Turner, Hearing Officer

The Appellant was not present.

The Hearing record was left open for the submission of additional evidence on behalf of the Appellant. The information was received and the record closed ██████████ 2015.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly determined ██████████ 2015 as the effective date of the Appellant's LTC assistance request.

FINDINGS OF FACT

1. On ██████████ 2014, the Appellant entered the Arden House. (Exhibit 1: W-1 LTC application)
2. On ██████████ 2015, the Department received an application for LTC Medicaid Assistance for the Appellant submitted by ██████████, Appellant's Power of Attorney ("POA"). (Exhibit 1)
3. On ██████████ 2015, the Appellant's POA entered into an Irrevocable Preneed Funeral Contract and a Revocable Burial Space Funeral Contract with ██████████ Funeral Home. The cost of the Irrevocable contract was \$5,400.00 and \$6,028.00 for the revocable burial space. (Exhibit 7: Copy of Irrevocable and Revocable contracts)
4. On ██████████ 2015, the Appellant's POA requested information from ██████████ in order to provide evidence of ownership requirements required by the Connecticut Bureau of Unclaimed Property. (Appellant's Exhibit C: Copy of fax receipt)
5. On ██████████ 2015, the Appellant's POA received the proceeds from the Appellant's Combined Life Insurance policies paid as follows: policy# ██████████ for \$6,386.85 and policy # ██████████ for \$3,108.56 totaling \$9,495.41. (Exhibit 4: Letter from Combined Insurance; Exhibit 5: Copy of checks)

6. On [REDACTED] 2015, the proceeds of the Appellant's Prudential Life Insurance policy of \$3,439.40 were deposited to the Appellant's TD Bank checking account. (Exhibit 3: TD Bank statement)
7. On [REDACTED] 2015, the Department received a letter from [REDACTED]. The letter indicated the Appellant had received the cash value of her Prudential Life Insurance policy and was waiting for the proceeds from Combined. (Exhibit 4)
8. On [REDACTED] 2015, the State of Connecticut's Unclaimed Property Division approved the Appellant's claim for payment. The gross payment totaled \$3,808.87. The unclaimed property consisted of outstanding checks, cash dividends, and issued shares. (Exhibit 6: Invoice of disbursement)
9. On [REDACTED] 2015, the Appellant's POA deposited the Combined Life Insurance proceeds of \$9,495.41 into the Appellant's TD Bank checking account. (Exhibit 3: TD Bank online statement)
10. On [REDACTED] 2015, a check for \$3,500.00 and a check for \$5,400.00 were written payable to the [REDACTED] Funeral Home. (Exhibit 7: Check Copies)
11. On [REDACTED] 2015, a check for \$3,500.00 and \$5,400.00 payable to [REDACTED] Funeral Home were debited from the Appellant's TD Bank account. (Exhibit 3)
12. The Appellant's bank account balances for the months of [REDACTED] 2015 and [REDACTED] 2015 were the following:

Month	TD Bank	People's United Bank
[REDACTED] 2015	\$1,437.71	\$173.00

 (Exhibit 2: People's United Bank statement; Exhibit 3: TD Bank statement)
13. On [REDACTED] 2015, the Department granted the Appellant's LTC application effective [REDACTED] 2015. (Hearing summary)
14. The Appellant receives a monthly Social Security check of \$1,174.00. The amount is deposited into the Appellant's TD Bank checking account on the third of each month. (Exhibit 3)
15. The highest balance for the Appellant's TD account for [REDACTED] 2015 was \$3,573.33. (Exhibit 3)
16. The Appellant's Attorney is seeking eligibility from [REDACTED] 2015. The Appellant's attorney acknowledges the Appellant was over assets for [REDACTED] 2015. (Attorney's testimony).

17. The Appellant's Attorney contends the Appellant's Unclaimed Property is not an available asset and not countable towards the \$1,600.00 asset limit. (Attorney's Brief)

CONCLUSIONS OF LAW

1. Section 17b-260 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 is not excluded by state or federal law and is either: (a) available to the unit or (b) deemed available to the unit.

UPM § 4005.05 (B) (2) provides that under all programs except Food Stamps, the Department considers as asset available when actually available to the individual or when the individual has the legal right, authority or power to obtain the asset, or have it applied for his or her general or medical support.

UPM § 4005.05 (D) (2) provides in relevant part, that 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.

The Department correctly determined the Appellant's representatives had the legal right and authority to obtain the unclaimed property (asset).

3. UPM § 4030.05 provides for the treatment of specific types of Bank Accounts.

UPM § 4030.05 (A) provides, in relevant part, for types of Bank Accounts. Bank accounts include the following: 1. Savings account; 2. Checking account.

UPM § 4030.05 (B) 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.

UPM § 4030.05 (C) provides that money which is received as income during a month and deposited into an account during the month is not considered an asset for that month, unless the source of the money is: 1. An income tax refund; or 2. cash received upon the transfer or sale of property; or 3. a security deposit returned by the landlord.

The Department incorrectly determined the balance of the Appellant's checking account for the month of [REDACTED] 2015 to be \$1,437.71. The correct amount is \$2,399.33 (\$3,573.33 - \$1,174.00).

4. UPM § 4030.30 (A) (1) provides that in all programs 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.

UPM § 4030.30 (A) (2) provides that policies such as term insurance having no cash surrender value are excluded as assets.

UPM § 4030.30 (C) (1) provides that if the total face value of all life insurance policies owned by the individual does not exceed \$1,500, 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 that has no cash surrender value.

UPM § 4030.30 (C) (2) provides that except as provided above, the cash surrender value of life insurance policies owned by the individual is counted towards the asset limit.

The Department correctly determined the Appellant's life insurance policies were not term policies but policies having cash surrender value and therefore counted towards the asset limit.

5. UPM § 4030.45 (A) (1) provides that the definition of lump sum payments include but are not limited to: (a) settlement of personal injury or property claim; (b) retroactive payment from: (1) unemployment compensation; (2) Social Security; (3) Supplemental Security Income; (c) insurance claim; (d) lottery winnings.

UPM § 4030.45 (B) (2) provides the following are considered assets, rather than lump sums: (a) An income tax refund is a counted asset in the month received by the assistance unit. (b) Cash received as compensation upon the transfer or sale of real or personal property is a counted asset as of the month of receipt by the assistance unit. (c) A security deposit returned to the assistance unit is a counted asset in the month of receipt.

The Department correctly determined the Appellant's unclaimed property as not meeting the definition of a lump sum.

6. UPM § 4030.75 (A) (1) provides that the equity value of a share of stock is the net amount the owner would receive upon selling the share.

The Department correctly determined the equity value of Appellant's unclaimed property as \$3,808.87.

7. UPM § 4099.15 (A) provides for factors relating to inaccessibility of assets. (1) The assistance unit must verify that an otherwise counted asset is inaccessible to the unit if the unit claims it cannot convert the asset to cash. (2) If the unit is unable to verify that the asset is inaccessible, the asset is considered a counted asset.

UPM § 4099.20 (A) provides for verification of excluded assets. 1. The assistance unit must verify the reason for the exclusion of an asset if there is a question regarding the validity of the exclusion.

UPM § 4099.20 (B) provides for exclusions of excluded assets. The reasons for exclusion include, but are not limited to: (1) source from which the assistance unit obtains the asset; (2) purpose for which the assistance unit uses the asset; (3) fair market value of the asset; (4) income generated by the asset; (5) expectations of an institutionalized individual to return to the home.

The Department correctly determined the Appellant's unclaimed property is not an excluded asset based on policy.

8. 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.

UPM § 4005.10 (A) (2) (a) provides that the asset limit for Medicaid for a needs group of one is \$1,600.00.

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.

The Department correctly determined [REDACTED] 2015 as the first month of eligibility based on the Appellant's assets [REDACTED] exceeding \$1,600.00.

DISCUSSION

The Department correctly determined [REDACTED] 2015 as the effective date of the Appellant's LTC coverage. The cash surrender value of the Appellant's life insurance policies exceeded \$1,600 for the month of [REDACTED] 2015. This amount alone is over the asset limit regardless of the dollar figure of the Appellant's unclaimed property or checking account value.

DECISION

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

Christopher Turner
Christopher Turner
Hearing Officer

Cc: Brian Sexton, Operations Manager New Haven
[REDACTED] Appellant's POA
Jacquelyn Mastracchio, 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, law, and 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.