

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 # 717609

NOTICE OF DECISION

PARTY

██████████
For ██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2015, the Department of Social Services (the "Department") sent ██████████ (the "Applicant") a Notice of Action ("NOA") granting Long Term Care Medicaid benefits effective ██████████ 2015 and denying such benefits for the months of ██████████ 2014 through ██████████ of 2015.

On ██████████ 2015, Attorney ██████████ the Applicant's Attorney, 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, at the Department's request, the OLCRAH issued a Notice rescheduling the administrative hearing for ██████████ 2015.

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

On ██████████ 2015 at the request of Attorney ██████████ the OLCRAH issued a Notice rescheduling the administrative hearing for ██████████ 2015.

On [REDACTED] 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:

[REDACTED], Appellant, Applicant's son
 Attorney [REDACTED] Applicant's Attorney
 Karonesa Logan Department's Representative
 Victor Robles, Department's Representative
 Swati Sehgal, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to grant Long Term Care benefits effective [REDACTED] 2015 was correct.

The issue regarding Applied Income will be addressed in another decision.

FINDINGS OF FACT

1. On [REDACTED] 2014, the Applicant entered Saint Mary Home (the "Facility"), a long term care facility. (Hearing Record)
2. On [REDACTED] 2015, the Department received an application for Medicaid for Long Term Care for the Applicant. (Department's summary)
3. Application listed [REDACTED] as authorized representative. (Hearing Record)
4. On [REDACTED] 2015, [REDACTED] 2015, [REDACTED] 2015, [REDACTED] 2015, the Department sent the Appellant W-1348LTC; Verification We Need Form requesting the information needed to process the Applicant's application. (Exhibit 2, 3, 4, 5: W-1348LTC dated [REDACTED]/15, [REDACTED]/15 [REDACTED] 15 and [REDACTED] 15)
5. On [REDACTED] 2015 and [REDACTED] 2015, the Department sent the Applicant's Attorney W-1348 LTC; Verification We Need Form requesting the information needed to process the Applicant's application. (Exhibit 6 and 7: W1348LTC dated [REDACTED] 15 and [REDACTED]/15)
6. The Medicaid asset limit is \$1,600.00. (Hearing Record)
7. On [REDACTED] 2014, the Applicant held the following assets:

TD Bank checking account #xxxxx [REDACTED]	\$1,362.00
TD Bank 60Plus checking account #xxxxx [REDACTED]	\$0.00
Prudential Life Insurance cash surrender value	\$6,795.10

(Exhibit 9: TD Bank statement and Exhibit 10: letter from Prudential dated [REDACTED]/14)

8. On [REDACTED] 2014, the Applicant sent Prudential a request for policy loan of \$3,388.68. (Exhibit 11: Request for policy loan)
9. On [REDACTED] 2014, Prudential sent the Applicant a check in the amount of \$3,388.68. (Exhibit 12: copy of the check)
10. On [REDACTED] 2015, the Department received a loan agreement between the Applicant and [REDACTED] (Department's summary)
11. On [REDACTED] 2015, the Applicant sent Prudential a request to surrender policy and asked payment to be made to [REDACTED] (Exhibit 13: Request to surrender policy dated [REDACTED]/15)
12. On [REDACTED] 2015, Prudential sent the Applicant a letter verifying cash surrender value amount with Applicant's name as policy owner. (Exhibit 14: policy value letter dated [REDACTED]/15)
13. On [REDACTED] 2015 Prudential sent a partial cash surrender value amount of \$1,435.25 payable to [REDACTED] (Exhibit 15: copy of check dated 5/6/15)
14. On May, 2015, the Applicant held the following assets:

TD Bank checking account ##xxxxx [REDACTED]	\$0.00
TD Bank 60 plus checking account ##xxxxx [REDACTED]	\$406.71
Prudential life insurance	\$0.00

(Exhibit 9 and Exhibit 13)
15. On [REDACTED] 2015, the Department granted the Applicant Medicaid for long term care assistance effective for [REDACTED] 2015. The first month the Applicant was under the asset limit for the program. (Department's Summary, and Testimony)
16. The Applicant's Attorney presented the argument that as of [REDACTED] 2014, the Applicant had assigned the insurance policy to her daughter in law, [REDACTED] in exchange for years' worth of loans and care therefore policy should not be considered the Applicant's asset as of [REDACTED] 2014. (Exhibit B: Attorney [REDACTED] rebuttal)

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. 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.
4. 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.
5. 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.
6. The Department correctly determined that the Prudential life Insurance policy #XXXXX [REDACTED] was an available asset and that the applicant had the legal right, authority or power to obtain the asset.
7. UPM § 4030.30 discusses the treatment of life insurance policies as assets.

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.

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 Prudential insurance policy

#XXXXX [REDACTED] had a face value exceeding \$1500.00, and that the policy's cash surrender value was therefore counted toward the asset limit.

9. UPM § 4005.10 provides that the Medicaid asset limit for a needs group of one is \$1,600.00 per month.
10. The Department correctly determined that the Applicant exceeded the Medicaid asset limit of \$1600.00 for [REDACTED]/14, [REDACTED]/14, [REDACTED]/15, [REDACTED]/15, [REDACTED]/15 and [REDACTED]/15.
11. The Department correctly determined that the Applicant did not meet the eligibility requirement of having assets under the limit in [REDACTED] 2014 through [REDACTED] 2014.
12. 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.
13. 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.
14. The Department correctly determined that the Applicant's Medicaid eligibility begin date is [REDACTED] 2015, the first day of the month in which assets were reduced below the asset limit for the program.

DISCUSSION

Attorney [REDACTED] argues that the value of the life insurance policy should not be considered because the Applicant was pursuing the surrender of the insurance policy and the proceeds were to be used to pay for outstanding loan and cost of care received from her daughter in law.

Attorney [REDACTED] argues that the Applicant transferred cash surrender value of Prudential insurance policy [REDACTED] to [REDACTED] on [REDACTED] 2014 through a written statement to [REDACTED] therefore it should not be considered the Applicant's asset as of [REDACTED] 2014.

The Applicant's Representatives through no fault of their own, took time to receive the cash surrender funds for the insurance policy from Prudential. However, the funds were available to the Applicant and are a counted 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 Applicant is eligible effective for [REDACTED] 2015.

DECISION

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

swati sehgal
Swati Sehgal
Hearing Officer

Cc: Musa Mohamud, DSS Operations Manager, DO#10 Hartford.
Elizabeth Thomas, DSS Operation Manager, DO#10 Hartford.
Karonesa Logan, DSS Eligibility Services Specialist and Liaison, DO#10 Hartford.
Attorney [REDACTED]

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.