

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 # 725130

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

In Re: ██████████

PROCEDURAL BACKGROUND

On ██████████ 2015, the Department of Social Services (the "Department") issued a notice to ██████████ Funeral ██████████, ██████████ Connecticut, stating that the maximum funeral and burial benefit of \$1,400.00 for ██████████ (the "Appellant") was being reduced by \$832.51 because the contributions received from the Appellant's Estate.

On ██████████ 2015, ██████████, the Appellant's Power of Attorney ("POA") and sister requested an administrative hearing to contest the Department's action.

On ██████████ 2015, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling an 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 and Sister of Appellant
Michele Rosko, Department's Representative
Charlene Darby, Department's Representative (observer)

Jonathan Gottesman, Department's Representative (observer)
Sybil Hardy, Hearing Officer

STATEMENTS OF THE ISSUE

The issue is whether the Department correctly issued the amount of funeral and burial expenses paid to [REDACTED] Funeral [REDACTED] under the Medicaid program.

FINDINGS OF FACT

1. The Appellant was a recipient of the Medicaid assistance program. (Hearing record)
2. Since [REDACTED] 2013, the Appellant lived in a skilled nursing facility, Village Green, [REDACTED] Connecticut. (Hearing Record, Exhibit 7: Letter of Approval for Funeral and Burial Payment, [REDACTED]/15.)
3. On [REDACTED] 2015, the Appellant passed away at the Nursing Facility. (Exhibit 1: Application for Payment of Burial and Funeral Expenses, [REDACTED]/15, Exhibit 4: Certificate of Death)
4. The Appellant was a recipient of the Medicaid program at the time of his death. (Hearing Record, Exhibit 1, Exhibit 4)
5. On [REDACTED] 2015, the Appellant had \$823.51 in resident trust account at the nursing facility, which became part of his Estate. (Hearing record, Exhibit 7)
6. On [REDACTED] 2015, the Department received from the Appellant's POA an Application for Payment of Burial and Funeral Expenses requesting payment towards the Appellant's funeral and burial expenses. (Exhibit 1)
7. On [REDACTED] 2015, the Department received a Statement of Funeral Good and Services Selected from [REDACTED] Funeral [REDACTED] indicating that the Appellant's total funeral and burial expenses are \$4,111.19. (Exhibit 2: Statement of Funeral Good and Services Selected, [REDACTED]/15)
8. The Appellant has no other burial benefits. (Appellant's POA's Testimony)
9. The Appellant was not a veteran. (Appellant's POA's Testimony)
10. The maximum standard funeral and burial payment is \$1,400.00. (Hearing Record)
11. The Appellant's estate contributed \$823.51 to the cost of his funeral expenses. (Hearing record, Exhibit 7)

12. On [REDACTED] 2015, the Department sent the Appellant's POA a notice indicating that payment was issued to [REDACTED] Funeral [REDACTED] in the amount of \$567.49 (\$1,400.00, standard funeral and burial payment - \$823.51) toward the Appellant's burial expenses. (Exhibit 6: Approval of Special Benefit, [REDACTED]/15)

CONCLUSIONS OF LAW

1. Connecticut General Statute § 17b-2 provides that the Commissioner of the Department of Social Services to administer the Medicaid program.
2. Public Act 15-5 (June Special Session, Section 384) provides, in relevant part that when a person in any town, or sent from such town to any licensed institution or state humane institution, dies or is found dead therein and does not leave sufficient estate or has no legally liable relative able to pay the cost of a proper funeral and burial, or upon the death of any beneficiary under the state-administered general assistance program, the Commissioner of Social Services shall give to such person a proper funeral and burial, and shall pay a sum not exceeding one thousand [eight] four hundred dollars as an allowance toward the funeral expenses of such deceased, said sum to be paid, upon submission of a proper bill, to the funeral director, cemetery or crematory, as the case may be. Such payment for funeral and burial expenses shall be reduced by (1) the amount in any revocable or irrevocable funeral fund, (2) any prepaid funeral contract, (3) the face value of any life insurance policy owned by the decedent, and (4) contributions in excess of [two thousand eight] three thousand two hundred dollars toward such funeral and burial expenses from all other sources including friends, relative and all other person, organizations, veterans' and other benefit programs and other agencies.
3. Uniform Policy Manual ("UPM") § 8080.90(B)(1) provides that except for the following, the rules for payment of funeral and burial expenses under SAGA are the same as in the AFDC program.
 - a. The Department pays funeral and burial expenses for a deceased individual who was not a recipient of TFA, AFDC or AABD at the time of death when the individual:
 - (1) dies without sufficient estate to pay the expenses; and
 - (2) has no legally liable relatives who are able to pay the expenses.
 - b. The amount of the Department's payment is reduced by certain contributions.
4. UPM § 8080.90(B)(3) provides that a deceased individual is eligible for SAGA burial expenses if:
 - a. the net value of his or her estate, and/or all actual and expected legally liable relatives' contributions and/or the value of all other countable contributions in excess of \$3,200.00, is less than \$1,400.00 or the amount of the funeral bill, whichever is less; and

- b. he or she was a Connecticut resident at the time of death, according to Department rules; and
 - c. the deceased individual also met the SAGA town residency requirements at the time of death. (Cross Reference: 8080.30)
5. UPM § 8080.90(B)(4)(b) provides that
- a. There is no asset limit or transfer of asset test for SAGA burial cases.
 - b. Assets in the estate include but are not limited to:
 - (1) Liquid assets including cash, bank accounts, stocks, bonds and mortgages; and
 - (2) The face value of insurance policies issued on the life of the deceased individual; and
 - (3) Real and personal property, including home owned property, motor vehicles, and the value of a burial plot or any burial reserve accounts.
 - c. The entire amount remaining after subtracting the costs of administering the estate from the total assets of the estate, together with the face value of any insurance policies issued on the life of the deceased, shall be considered available to apply to cost of burial.
6. UPM § 8080.90(B)(8) provides that
- a. The standard of payment for a SAGA funeral and burial is \$1,400, or the actual cost of the funeral and burial, whichever is less. The payment is made directly to the funeral home.
 - b. The amount of the payment is reduced by all of the following:
 - (1) the net value of the deceased's estate, including the face value of any insurance policies issued on the life of the deceased; and
 - (2) the actual or expected contribution from legally liable relatives, whichever is higher; and
 - (3) the excess value of cash and in-kind contributions from other sources.
 - c. The value of any Social Security death benefit that is paid to a legally liable relative is:
 - (1) counted as income when calculating the relative's expected contribution; or
 - (2) treated as a contribution when it is paid toward the cost of the burial by a legally liable relative.

7. The Department correctly determined that the Appellant's nursing facility account was part of the Appellant's Estate and could be applied to the cost of burial.
8. The Department correctly determined that the Appellant's Estate contributed \$832.51 towards the cost of his funeral expenses.
9. The Department correctly determined that the correct payment for funeral and burial services is \$567.49 (\$1,400.00 – 832.51)
10. The Department correctly issued a payment of \$567.49 to [REDACTED] Funeral [REDACTED] [REDACTED] for the Appellant's funeral expenses.

DECISION

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


Sybil Hardy
Hearing Officer

Cc: Judy Williams, Operations Manager, DSS R.O. # 60, Waterbury
Karen Main, Operations Manager, DSS R.O. # 60, Waterbury
Michele Rosko, Resource Investigator, DSS R.O. # 60, Waterbury

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.