

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#: ██████████
Hearing ID#: 730089

NOTICE OF DECISION

PARTY

██████████
C/O ██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2015, the Department of Social Services (the “Department”) granted ██████████, (“the Appellant”) ██████████ 2015, application for Medicaid Long Term Care benefits effective ██████████ 2015.

On ██████████ 2015, ██████████, the Appellant’s Representative requested an administrative hearing to contest the Department’s decision to deny certain months of benefits and requested that the Department grant benefits back to ██████████ 2015.

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

On ██████████ 2015, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-184 of the Connecticut General Statutes, inclusive, OLCRAH held an administrative hearing. The following individuals were present at the hearing:

██████████, Appellant’s Representative
Shaun Powell, Waveny Care Center
Michelle Massicotte, Department’s Representative
Scott Zuckerman, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly granted the Appellant's Long Term Care Medicaid benefits effective [REDACTED] 2015.

FINDINGS OF FACT

1. On [REDACTED] 2013, the Appellant was a resident at Waveny Care Center in [REDACTED] [REDACTED] CT. (Hearing Record)
2. On [REDACTED] 2013, the Appellant applied for Title XIX Long-Term Care Medical Assistance. (Exhibit B: Appellant's representative Statement)
3. In April 2014, the Appellant's home was sold. (Exhibit 8: Case narrative [REDACTED] 2014)
4. Effective [REDACTED] 2014, the Appellant was over the Medicaid asset limit as a result of the proceeds from the sale of her home. (Hearing Record)
5. In [REDACTED] 2014, the proceeds totaling \$202,355.50 from the sale of the Appellant's home were deposited into the Appellant's bank account. (Hearing Record)
6. On [REDACTED] 2014, the Appellant was granted Long Term Care Medical Assistance effective [REDACTED] 2014 through [REDACTED] 2014 and medical assistance was denied effective [REDACTED] 2014 and ongoing. (Ex. 8: Case narrative [REDACTED]/14 and Exhibit 10: Assistance Status Screens)
7. The Appellant did not request an Administrative hearing for the discontinuance of Medical Assistance effective [REDACTED] 2014. (Appellant's Testimony)
8. On [REDACTED] 2015, the Appellant had a Bank account with First Banking Services with a balance of \$64,853.00. (Exhibit 6: Bank statement, [REDACTED] 2015)
9. On [REDACTED] 2015, the Appellant's assets were reduced to below the \$1600.00 asset limit. (Hearing Record)
10. On [REDACTED] 2015, the Appellant's representative applied for Long term care Medical Assistance. (Exhibit 1: W-1LTC, Long-term care/Waiver Application, [REDACTED]/15)
11. On [REDACTED] 2015, the Department mailed the Appellant's representative a W-1348LTC, Verification we Need form requesting verifications that were needed to establish eligibility. The form requested that the Appellant reduce her countable assets to \$1600.00 or less. (Exhibit 2: W-1349LTC, [REDACTED]/15)

12. On [REDACTED] 2015, the Appellant past away. (Hearing Summary, Ex. 8: Case narrative, [REDACTED]/15)
13. On [REDACTED] 2015, the Department granted the Appellant Long Term Care Medical Assistance effective [REDACTED] 2015. (Exhibits 3 and 4: Notice dated [REDACTED] 2015)
14. On [REDACTED] [REDACTED] 2015, the Appellant's Representative requested an Administrative hearing to contest the effective date of Medical Assistance. (Hearing Record)
15. On [REDACTED] 2015, the Department determined that the Appellant was eligible for retroactive medical assistance effective [REDACTED] 2015, as she reduced her assets to under the \$1600.00 limit in [REDACTED] 2015. (Hearing Summary, Exhibit 5: Notice, [REDACTED]/15)
16. The Asset limit is \$1600.00 for Long Term Care Medical Assistance. (Department Testimony)

CONCLUSIONS OF LAW

1. Connecticut General Statutes §17b-2 provides in part that the Commissioner is authorized to administer the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Uniform Policy Manual § 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 Section 4005.10 (A) provides that in the Medicaid program, the asset limit for one person is \$1,600.00.
5. The Department correctly determined the Appellant reduced her assets to below the limit in [REDACTED] 2015.
6. UPM § 1560.10 discusses Medicaid beginning dates of assistance and provides that the beginning date of assistance for Medicaid may be one of the following:
 - A. 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; or
- B. The first day of the month of application when all non-procedural eligibility requirements are met during that month; or
 - C. The actual date in a spenddown period when all non-procedural eligibility requirements are met. For the determination of income eligibility in spend-down, refer to Income Eligibility Section 5520; or
 - D. The first of the calendar month following the month in which an individual is determined eligible when granted assistance as a Qualified Medicare Beneficiary (Cross Reference: 2540.94). The month of eligibility determination is considered to be the month that the Department receives all information and verification necessary to reach a decision regarding eligibility.
7. The Department correctly determined the effective date of assistance as [REDACTED] 2015, **three months immediately preceding the [REDACTED] 2015, the month of application.**
9. On [REDACTED] 2015, the Department correctly granted the Appellant's [REDACTED] 2015 application for Long Term Care Medicaid effective [REDACTED] 2015, and granted retroactively to [REDACTED] 2015.

DISCUSSION

I find that the Department acted correctly when determining the effective date of Long Term Care Medicaid assistance effective [REDACTED] 2015. The Appellant's representative applied for assistance in [REDACTED] 2015. Regulations allow that the Department may grant retroactive Medicaid benefits up to the three months immediately preceding the application month (UPM § 1560.10). The Department initially granted medical assistance effective [REDACTED] 2015. After receiving the hearing request, the Department discovered the Appellant's assets were reduced under the \$1600.00 limit effective [REDACTED] 2015. The Department was able to grant benefits for all three months preceding the application month as policy allows.

The Appellant's representative was requesting the Department grant assistance effective [REDACTED] 2015. There is no provision in Departmental policy which allows for retroactive Medicaid coverage beyond the three months preceding the application month.

DECISION

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

Handwritten signature of Scott Zuckerman in black ink.

Scott Zuckerman
Hearing Officer

Cc: Rachel Anderson, Operations Manager, DSS, Stamford Regional Office
Michelle Massicotte, Fair Hearing Liaison, DSS, Stamford Regional Office.

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.