

STATE OF CONNECTICUT  
DEPARTMENT OF SOCIAL SERVICES  
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS  
55 FARMINGTON AVENUE  
HARTFORD, CT 06105-3725

██████████ 2016  
Signature Confirmation

Client ID # ██████████  
Request # 00727380

NOTICE OF DECISION

PARTY

██████████  
C/o ██████████  
██████████  
██████████

PROCEDURAL BACKGROUND

On ██████████ 2015, the Department of Social Services (the "Department") sent ██████████, Representative for ██████████, (the "Appellant"), a Notice of Action ("NOA") granting Medicaid benefits effective ██████████ 2015, and a Notice of Action denying Medicaid benefits for the month of ██████████ 2015.

On ██████████ 2015, the Appellant's Representative requested an administrative hearing to contest the effective date of 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, 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 Representative  
Andrea Mcguire, Observer  
Jacqueline Mastracchio, Department's Representative  
Shelley Starr, Hearing Officer

The Appellant, [REDACTED], was not present at the hearing due to his passing on [REDACTED] 2015.

### **STATEMENT OF THE ISSUE**

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

The issue regarding Applied Income will be addressed in a separate decision.

### **FINDINGS OF FACT**

1. On [REDACTED] 2015, the Appellant was admitted to the Regency House (the "Facility"), a rehabilitation facility. (Hearing Summary and Department's Testimony)
2. The Appellant was 64 years old (DOB [REDACTED]51), Widowed, and had a primary medical diagnosis of Diabetes Mellitus and End State Renal Disease. (Exhibit 18: Yale New Haven W-10 Medical Report and Exhibit 10: Ascend document)
3. On [REDACTED] 2015, the Department received an application for Long Term Care ("LTC") Medicaid for the Appellant. (Hearing Summary and Hearing Record)
4. The Appellant's application listed [REDACTED] as the representative and daughter of the Appellant. (Exhibit 1: W-1LTC application received [REDACTED] 2015)
5. On [REDACTED] 2015, the Department sent a W-1348LTC Verification We Need form to the Appellant's Representative requesting proof of the face and surrender values of the Appellant's Prudential Life insurance policies # [REDACTED] and # [REDACTED] TD bank account # [REDACTED] and Achieve # [REDACTED] bank account statements. The notice stated "there is no eligibility for Title 19 Long Term Care benefits in any month in which counted assets exceed \$1,600.00." The information was due by [REDACTED] 2015. (Exhibit 15: W-1348LTC dated [REDACTED] 2015.)
6. The Department sent the Appellant's Representative five (5) additional W-1348 LTC forms requesting information including the Prudential Life Insurance policies. (Exhibit 15: W-1348LTC forms).
7. The Appellant was the owner and insured of two Prudential Life Insurance Policies # [REDACTED] and # [REDACTED] (Exhibit 13: Prudential letter dated [REDACTED] 2015 and Hearing Record)
8. On [REDACTED] 2009, the Appellant's Prudential Life Insurance Policy # [REDACTED] was surrendered for its cash value. (Exhibit 13: Prudential Letter dated [REDACTED] 2015)
9. On [REDACTED] 2015, the Appellant's Representative submitted the life insurance surrender form to Prudential. (Hearing Summary and Hearing Record)

10. On [REDACTED] 2015, the Appellant's Prudential Life Insurance Policy # [REDACTED] was surrendered for its cash value. The cash surrender value of the policy was \$4,557.11. The Appellant was issued a check on [REDACTED] 2015 for \$4,557.11. (Exhibit 13: Prudential check dated [REDACTED] 2015 and Prudential letter dated [REDACTED] 2015)
11. On [REDACTED] 2015, the Appellant purchased an irrevocable funeral trust with [REDACTED] Funeral home for \$4,700.00 using the proceeds from the P [REDACTED] Insurance Policy # [REDACTED] (Exhibit 13: Receipt # [REDACTED] from [REDACTED] Funeral home dated [REDACTED] 2015 for \$4700.00 and Exhibit 14: [REDACTED] Irrevocable Funeral Contract)
12. On [REDACTED] 2015, the Appellant passed. (Hearing Summary and Department's Testimony)
13. The Medicaid asset limit is \$1,600.00. (Hearing Record)
14. The Appellant reduced his assets under the \$1,600.00 asset limit on [REDACTED] 2015, with the purchase of his \$4,700.00 irrevocable funeral contract. (Exhibit 13: Funeral Contract Receipt, dated [REDACTED] 2015, Exhibit 14: [REDACTED] Irrevocable Funeral Contract and Hearing Record)
15. On [REDACTED] 2015, the Department granted Medicaid for long term care assistance effective [REDACTED] 2015, the first month the Appellant was under the \$1,600.00 asset limit. (Hearing Summary, Department's Testimony and Exhibit 3: [REDACTED] 2015 Notice of Action)

### **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. Connecticut General Statutes 17b-261(c) provides in part that for the purposes of determining eligibility for the Medicaid program, an available asset is one that is actually available to the applicant or one that the applicant has the legal right, authority or power to obtain or to have applied for the applicant's general or medical support.
4. UPM § 4005.05 (A) 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.

5. 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.
6. UPM § 4005.05 (D) provides 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.
7. UPM § 4030.30 (C) provides that the cash surrender value of life insurance policies owned by an individual are counted towards the asset limit. If the face value of all insurance policies owned by the individual does not exceed \$1,500.00, the cash surrender value of such policies is excluded.
8. UPM § 4005.10 provides that the Medicaid asset limit for a needs group of one is \$1,600.00 per month.
9. 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.
10. UPM § 4015.05 (B) provides that the burden is on the assistance to demonstrate that an asset is inaccessible. For all programs except Food Stamps, in order for an asset to be considered inaccessible, the assistance unit must cooperate with the Department as directed, in attempting to gain access to the asset.
11. 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.
12. The Department correctly counted the Appellant's life insurance policies as accessible until they were cashed and used in establishment of a funeral contract in [REDACTED] 2015.
13. The Department correctly determined that the Appellant's assets exceeded the Medicaid asset limit of \$1,600.00 for the month of [REDACTED] 2015.
14. The Department correctly determined that the Appellant was ineligible for Medicaid for the period of [REDACTED] 2015 through [REDACTED] 2015.
15. The Department correctly denied the Appellant's [REDACTED] 2015, Long Term Care Medicaid application for the month of [REDACTED] 2015.

**DISCUSSION**

After reviewing the evidence and testimony presented, I find the Department's determination of the Medicaid effective date to be correct.

The record reflects that the Appellant's assets were within the Medicaid limits effective [REDACTED] 2015, the month in which the Prudential life insurance policy # was surrendered and assets were reduced. Prior to [REDACTED] 2015, the value of the cash surrender of the life insurance policy was available to the Appellant and exceeded the Medicaid limit.

The Appellant's Representative was pursuing the surrender of the insurance policy. It took less than a month from the time the Representative submitted the surrender form to the insurance company to receive the surrender check and purchase an irrevocable funeral trust.

**DECISION**

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

  
\_\_\_\_\_  
Shelley Starr  
Hearing Officer

cc: Bonnie Shizume, Program Manager, New Haven 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 06105-3725. 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.

