

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 Mail

CL ID # ██████████
Request ID#732906

NOTICE OF DECISION

PARTY

████████████████████
████████████████████
████████████████
████████████████

PROCEDURAL BACKGROUND

On ██████████ 2015, the Department issued a Notice of Action (“NOA”) to ██████████
██████████ (“the Appellant”) advising him that it had denied his long-term care Medicaid
application for the months of ██████████ 2015 – ██████████ 2015 and had granted his
application for long-term care Medicaid effective ██████████ 2015.

On ██████████ 2015, the Appellant requested an administrative hearing to contest
the Department’s determination of the effective date of long-term care Medicaid
benefits.

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

On ██████████ 2015, in accordance with Connecticut General Statutes § 17b-60, 17b-
61 and 4-176e to 4-189, inclusive, OLCRAH held an administrative hearing.

The following individuals were present at the hearing:

████████████████████ Appellant’s Conservator
██████████, Silver Springs Care Center, Appellant’s Witness

Mario Ponzio, Department's Representative
Pamela J. Gonzalez, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether the Department correctly determined that the effective date of the Appellant's long-term care Medicaid assistance is [REDACTED] 2015.

FINDINGS OF FACT

1. The Appellant is a resident of the Silver Springs Care Center. (Hearing record)
2. The Appellant applied for long-term care Medicaid on [REDACTED] [REDACTED] 2015. (Department's representative's testimony)
3. The Appellant seeks Medicaid long-term care coverage effective [REDACTED] 2014. (Appellant's witness' testimony)
4. The State of Connecticut [REDACTED] Court of Probate appointed a conservator for the Appellant on [REDACTED] 2015. (Appointment of Conservatorship – Appellant's exhibit A-pages 2, 4)
5. At the time of his Medicaid application, the Appellant's assets included a Webster Bank checking account # [REDACTED] holding \$647.38, a MetLife whole life insurance policy # [REDACTED] with a face value of \$1,000.00, and MetLife stocks account # [REDACTED] with cash value of \$2,365.55. (Eligibility Management System AST1 screen prints – Department's exhibit 10, Hearing record)
6. On [REDACTED] 2015, the Appellant received a cash surrender payment from MetLife for his life insurance in the amount of \$2,854.14. (Copy of surrender payment check – Department's exhibit 3)
7. On [REDACTED] 2015, the Department issued a W-1348 Form-Verification We Need Form asking that the Appellant provide the following verifications: copy of death certificate or divorce decree, if widowed or divorced, how the \$5,181.30 from the close of Webster # [REDACTED] on [REDACTED] 2015 were spent on client needs, proof of any other assets you and/or your spouse own, most current statement showing the value of Computershare Account [REDACTED] (MetLife), how the \$2,854.47 dispersed from the cash in of MetLife # [REDACTED] were spent. (W-1348 Form – Department's exhibit 4)
8. On [REDACTED] 2015, the Appellant's conservator sent a letter to Computershare asking that all accounts in the Appellant's name be liquidated. (Letter dated [REDACTED] 2015 – Appellants exhibit A-page8)

9. On [REDACTED] [REDACTED] 2015, the Appellant's Conservator sent another letter to Computershare asking that they liquidate all of the Appellant's accounts. (Letter dated [REDACTED] 2015 – Appellant's exhibit A-page 11)
10. MetLife issued a replacement payment in the amount of \$27.30 with payable dates of [REDACTED] 2015 and [REDACTED] 2015. (Copy of check – Appellant's exhibit A-page 16)
11. The value of the Appellant's Computershare stocks totaled \$2,365.55 in each of the pending months of [REDACTED] 2015 – [REDACTED] 2015. (Department's exhibit 10, Hearing record)
12. MetLife issued a check in the amount of \$2,338.22 with a payable date of [REDACTED] 2015, for the surrender of the Appellant's stock shares. (Copy of check – Appellant's exhibit A-page 17)
13. On [REDACTED] 2015, the Appellant paid [REDACTED] \$2,400.00 and paid Silver Springs \$77.07. (Confirmation of payment – Department's exhibit 8)
14. On [REDACTED] 2015, the Department granted the Appellant's Medicaid application for long-term care effective [REDACTED] 2015. (Notice dated [REDACTED] 2015 – Department's exhibit 9)

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") § 4030 provides that the Department evaluates all types of assets available to the assistance unit when determining the unit's eligibility for benefits.
3. UPM § 4005.05(B)(1) states, 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.
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. The Department was correct to consider that the Appellant had the legal right, authority or power to obtain his MetLife stock shares and that they were available assets for Medicaid eligibility purposes.
6. UPM § 4030.75(A) states 1. The equity value of a share of stock is the net amount the owner would receive upon selling the share. 2. In computing this net amount due the owner, the Department subtracts the broker's fee, if any, from the market value of the share of stock.
7. UPM § 4015.05(A)(1) provides that subject to the conditions described in this section, equity in an asset which is inaccessible to the assistance unit is not counted as long as the asset remains inaccessible.
8. UPM § 4015.05(B) provides in part, (1) The burden is on the assistance unit to demonstrate that an asset is inaccessible. (2) 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.
9. The Appellant has not demonstrated that his stock assets were inaccessible from [REDACTED] 2015 – [REDACTED] 2015, inclusive.
10. Section 17b-80(a) of the Connecticut General Statutes states that the Department shall grant aid only if the applicant is eligible for that aid.
11. 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 spenddown, 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: 2540.90). 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.
12. UPM § 4026.05 pertains to the calculation method for counted assets and states: The amount of assets counted in determining the assistance unit's eligibility is calculated in the following manner: A. The Department determines the amount of the assistance unit's available non-excluded assets by subtracting the value of the following assets owned by the assistance unit: 1. Those assets considered to be inaccessible to the assistance unit at the time of determining eligibility; and 2.

assets which are excluded from consideration. B. The Department adjusts the amount of the assistance unit's available non-excluded assets by: 1. subtracting a Community Spouse Disregard (CSD), when appropriate, for those individuals applying for assistance under the MAABD program (Cross reference: 4022.05); and 2. Adding any amount of assets deemed to be available to the assistance unit (Cross Reference: 4025); and 3. subtracting a Long-Term Care Insurance Disregard (LTCID), when appropriate, for those individuals applying for or receiving assistance under the MAABD program (Cross Reference: 4022.10). C. The amount remaining after the above adjustments is counted.

13. UPM § 4005.10(A)(2)(a) provides that the asset limit for the Medicaid program for a needs group of one is \$1,600.00.
14. The value of the Appellant's MetLife stocks of \$2,365.55 exceeded the Medicaid asset limit of \$1,600.00 for the months of [REDACTED] 2015 through [REDACTED] 2015.
15. UPM § 4005.15(A)(2) provides that 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.
16. The Appellant's assets were reduced to within the Medicaid asset limit in [REDACTED] 2015.
17. The Department correctly determined that the Appellant is asset eligible for long-term care Medicaid effective [REDACTED] 2015.

DISCUSSION

After reviewing the evidence and testimony presented, I find that the Department correctly determined the effective date of the Appellant's Medicaid assistance.

Regulations provide that eligibility for the Medicaid program begins the first day of the month in which the assistance unit reduces its equity in counted assets to within the asset limit. The Appellant's assets meet the available asset definition and their value was in excess of the program limit for the months of [REDACTED] 2015 through [REDACTED] 2015. Asset eligibility does not exist in this case until [REDACTED] 2015.

The Appellant's Conservator testified that initially, he was unaware of the MetLife stock asset and once aware, he moved promptly to liquidate. In addition, he argued that the Appellant should not be harmed by the length of time Computershare took to liquidate his asset. He asks what more he could have done to establish the Appellant's asset eligibility.

The MetLife stock meets the definition of available asset. I have no authority to grant an exception to the regulations and find no error with the Department's determination of the effective date of Medicaid in this case.

DECISION

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

Pamela J. Gonzalez

Pamela J. Gonzalez
Hearing Officer

Copy: Tyler Nardine, SSOM, R.O. #50, Middletown



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.