

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 # 742737

NOTICE OF DECISION

PARTY

██████████
c/o ██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2015, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") denying her application for Medicaid benefits for ██████████ 2014 through ██████████ 2015 because her assets exceeded the Medicaid program limits.

On ██████████ 2015, ██████████, the Appellant's Conservator of Estate and Person (the "Conservator"), requested an administrative hearing to contest the Department's decision to deny the Appellant's application for Medicaid benefits for ██████████ 2014 through ██████████ 2015.

On ██████████ 2015, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████ 2016.

On ██████████ 2016, 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 Conservator of Estate and Person
Matthew Lenczewski, Department's Representative

Sybil Hardy, Hearing Officer

The record was held open for the submission of additional evidence. On [REDACTED] 2016, the record closed.

STATEMENT OF THE ISSUE

The issue is whether the Department correctly denied the Appellant's Long Term Care Medicaid application for the period of [REDACTED] 2014 through [REDACTED] 2016 due to excess assets.

The issue regarding whether the Department correctly determined the correct effective date of the Appellant's Long-Term Care Medicaid benefits will be addressed in a separate decision.

FINDINGS OF FACT

1. On [REDACTED] 2014, the Appellant was admitted to the skill nursing facility, Touchpoints at Chestnut (the "Nursing Facility"), [REDACTED] Connecticut. (Exhibit 3: Long-term Care/Waiver ["W-1LTC"] Application, [REDACTED] 15)
2. The Appellant is 82 years old (DOB [REDACTED]/33), widowed and living in a skilled nursing facility. (Exhibit 3)
3. On [REDACTED], 2014, the Department received from the Conservator a long-term care application for Appellant. (Exhibit 2: Eligibility Management System ["EMS"] Narrative Screens, Exhibit 3)
4. On [REDACTED] 2014, the Department sent the Conservator a Verification We Need ("W-1348") form requesting the following missing information: death certificate for spouse, Medicaid card, third party liability (Anthem and AARP) information, premium information, bank statements from Bank of America, life insurance policies with cash surrender values, copy of all funeral contracts, property deeds, gross pension information. This information was due back to the Department by [REDACTED], 2014. (Exhibit 4: Verification We Need ["W-1348 LTC"] form.
5. On [REDACTED] 2015, the Department sent the Conservator another W-1348 LTC form requesting the following information: death certificate for spouse, copy of medical cards, W-1685 form for all three insurance policies, verification of source of deposits and use of funds for the Appellants various bank accounts and other assets. (Exhibit 2)
6. The Appellant receives a monthly payment from the Social Security Administration ("SSA") for the amount of \$1,258.00. These benefits are not directly deposited into

the Appellant's bank accounts. (Conservator's Testimony, Exhibit 2: Eligibility Management System ["EMS"] Narrative Screens, Exhibit 3: Long-Term Care/Waiver Application, [REDACTED] 16)

7. The Appellant receives a monthly pension from [REDACTED] in the amount of \$77.98. This payment is not directly deposited into the Appellant's bank accounts. (Conservator's Testimony, Exhibit 2, Exhibit 3, Exhibit 8: Bank of America Checking and Savings Accounts [REDACTED] [REDACTED])
8. The appellant receives a monthly life income from the Veteran's Administration for the amount of \$77.10. (Conservator's Testimony, Exhibit 2, Exhibit 3, Exhibit 9: Bank of America [REDACTED])
9. For the period of [REDACTED] 2014 through [REDACTED], 2014, the Appellant had the following assets and balances: Citizen Bank [REDACTED], \$604.54, Bank of America [REDACTED], \$0.00, Bank of America [REDACTED], \$350.00, Bank of America [REDACTED] \$143.42, Bank of America [REDACTED], \$125.00, Webster Bank [REDACTED], \$1,009.53, Webster Bank, [REDACTED], \$814.13. (Exhibit 5: L01 Asset Worksheet, Exhibit 7: Citizen Bank Statement Account [REDACTED], Exhibit 8: Bank of America Statement [REDACTED] / [REDACTED], Exhibit 9: Bank of America Bank Statement [REDACTED] / [REDACTED], Exhibit 10: Webster Bank Statement [REDACTED], Exhibit 11: Webster Bank Statemen [REDACTED])
10. For the period of [REDACTED] 2014 through [REDACTED] 2014, the Appellant's assets were above \$1,600.00. (Exhibit 5, Exhibit 7, Exhibit 8, Exhibit 9, Exhibit 10, Exhibit 11)
11. For the period of [REDACTED] 2014 through [REDACTED] 2014, the Appellant had the following assets and balances: Citizen Bank [REDACTED], \$1, 554.68, Bank of America [REDACTED], \$0.00, Bank of America [REDACTED], \$338.50, Bank of America [REDACTED] \$124.42, Bank of America [REDACTED], \$150.00, Webster Bank [REDACTED], \$1,009.36, Webster Bank, [REDACTED], \$814.44. (Exhibit 5, Exhibit 7, Exhibit 8, Exhibit 9, Exhibit 10, Exhibit 11)
12. For the period of [REDACTED] 2014 through [REDACTED] 2014, the Appellant's assets were over \$1,600.00. (Exhibit 5, Exhibit 7, Exhibit 8, Exhibit 9, Exhibit 10, Exhibit 11)
13. For the period of [REDACTED] 2014 through [REDACTED] 2014, the Appellant had the following assets and balances: Citizen Bank [REDACTED], \$1,618.39, Bank of America [REDACTED], \$0.00, Bank of America [REDACTED], \$403.60, Bank of America [REDACTED] \$258.80, Bank of America [REDACTED], \$175.00, Webster Bank [REDACTED], \$1,009.53, Webster Bank [REDACTED], closed. (Exhibit 5, Exhibit 7, Exhibit 8, Exhibit 9, Exhibit 10, Exhibit 11)
14. For the period of [REDACTED] 2014 through [REDACTED] [REDACTED], 2014, the Appellant's assets were over \$1,600.00. (Exhibit 5, Exhibit 7, Exhibit 8, Exhibit 9, Exhibit 11)

15. For the period of [REDACTED] 2014 through [REDACTED] 2014, the Appellant had the following assets and balances: Citizen Bank [REDACTED], \$498.95, Bank of America [REDACTED], \$0.00, Bank of America [REDACTED], \$545.80, Bank of America [REDACTED], \$291.85, Bank of America [REDACTED], \$200.00, Webster Bank, [REDACTED], closed. (Exhibit 5, Exhibit 7, Exhibit 8, Exhibit 9, Exhibit 10, Exhibit 11)
16. For the period of [REDACTED] 2014 through [REDACTED] 2014, the Appellant's assets are below \$1,600.00. (Exhibit 5, Exhibit 7, Exhibit 8, Exhibit 9, Exhibit 10, Exhibit 11)
17. For the period of [REDACTED] 2014 through [REDACTED] 2014, the Appellant had the following assets and balances: Citizen Bank [REDACTED], \$1,402.65, Bank of America [REDACTED], \$0.00, Bank of America [REDACTED], \$533.80, Bank of America [REDACTED], \$266.86, Bank of America [REDACTED], \$225.00. (Exhibit 5, Exhibit 7, Exhibit 8, Exhibit 9)
18. For the period of [REDACTED] 2014 through [REDACTED] 2014, the Appellant's assets were over \$1,600.00. (Exhibit 5, Exhibit 7, Exhibit 8, Exhibit 9)
19. For the period of [REDACTED] 2014 through [REDACTED] 2014, the Appellant had the following assets and balances: Citizen Bank [REDACTED], \$543.56, Bank of America [REDACTED], closed, Bank of America [REDACTED], \$598.90, Bank of America [REDACTED], \$381.32, Bank of America [REDACTED], \$250.00. (Exhibit 5, Exhibit 7, Exhibit 8, Exhibit 9)
20. For the period of [REDACTED] 2014 through [REDACTED] 2014, the Appellant's assets were over \$1,600.00. (Exhibit 5, Exhibit 7, Exhibit 8, Exhibit 9)
21. For the period of [REDACTED] 2015 through [REDACTED] 2015, the Appellant had the following assets and balances: Citizen Bank [REDACTED], \$1,391.57, Bank of America [REDACTED], \$664.00, Bank of America [REDACTED], \$356.32, Bank of America [REDACTED], \$275.00. (Exhibit 5, Exhibit 7, Exhibit 8, Exhibit 9)
22. For the period of [REDACTED] 2015, through [REDACTED] 2015, the Appellant's assets were over \$1,600.00. (Exhibit 5, Exhibit 7, Exhibit 8, Exhibit 9)
23. For the period of [REDACTED] 2015 through [REDACTED] 2015, the Appellant had the following assets and balances: Citizen Bank [REDACTED], \$554.85, Bank of America [REDACTED], \$83.30, Bank of America [REDACTED], \$409.30, Bank of America [REDACTED], \$300.00. (Exhibit 5, Exhibit 7, Exhibit 8, Exhibit 9)
24. For the period of [REDACTED] 2015 through [REDACTED] 2015, the Appellant's assets were below the \$1,600.00 asset limit and remained below the asset limit. (Exhibit 5, Exhibit 7, Exhibit 8, Exhibit 9)

25. On [REDACTED] 2015, the Department sent a notice to the Conservator indicating that the Appellant was eligible for Long-Term Care benefits under the Medicaid program effective [REDACTED] 2015. (Exhibit 16: Notice of Action, [REDACTED]/15)

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") § 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 assistance unit.
3. UPM § 4030 provides that the Department evaluates all types of assets available to the assistance unit when determining the unit's eligibility for benefits.
4. Connecticut General Statutes 17b-261(c) provides 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. If the terms of a trust provide for the support of an applicant, the refusal of a trustee to make a distribution from the trust does not render the trust an unavailable asset. Notwithstanding the provisions of this subsection, the availability of funds in a trust or similar instrument funded in whole or in part by the applicant or the applicant's spouse shall be determined pursuant to the Omnibus Budget Reconciliation Act of 1993, 42USC 1396p.
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 § 4005.10 (A)(2)(a) provides that the asset limit for Medicaid for a needs group of one is \$1,600.
8. The Department correctly determined that the checking and savings accounts with Citizen Bank, Bank of America and Webster Bank are owned by the Appellant.

9. UPM § 4005.15(A)(2) provides that at the time of application, the assistance unit is ineligible for assistance until the first day it reduces its equity in counted assets to within the particular program asset limit.
10. The Department correctly determined that the accounts with Citizen Bank, Bank of America and Webster Bank were accessible assets for the Appellant.
11. UPM § 4030.05(B) provides that part of a checking account to be considered as a counted asset during a given month is calculated by subtracting the actual amount of income the assistance unit deposits into the account that month from the highest balance in the account for that month.
12. UPM § 4030.05(C) provides that money which is received during a month and deposited into an account during the month is not considered an asset for that month, unless the sources of the money is; an income tax refund; or cash received upon the transfer or sale of property; or a security deposit returned by the landlord.
13. The Department correctly determined that the Appellant's Social Security payments and pension payments deposited into her checking accounts were not counted as assets during the month deposited.
14. The Department correctly determined that the Appellant's assets exceeded the \$1,600.00 asset limit for period of [REDACTED] 2014 through [REDACTED] 2014 and [REDACTED] 2014 through [REDACTED] 2015.
15. UPM § 4005.15(B)(2)(b) provides in part that if the assistance unit does not reduce its excess to an allowable level by the end of the month the excess first occurs, the unit is ineligible as of the first day of the following month and remains ineligible until the first day of the month in which the unit properly reduces its assets to an allowable level.
16. The Department incorrectly determined that the Appellant's assets exceeded the \$1,600.00 asset limit for [REDACTED] 2015.
17. The Department correctly determined that the Appellant was ineligible for Medicaid for the period of [REDACTED] 2014 through [REDACTED] 2014 and [REDACTED] 2014 through [REDACTED] 2015.
18. The Department correctly denied the Appellant's Long Term Care Application from [REDACTED] 2014 through [REDACTED] 2015 because the Appellant's assets exceeded the Medicaid asset limit.

DISCUSSION

Based on the evidence and testimony presented, I have determined that the Department correctly denied the Appellant's Long Term Care Application for the period of [REDACTED] 2014 through [REDACTED] 2015 because the Appellant's assets exceeded the Medicaid program asset limit of \$1,600.00.

In regards to the Appellant's bank statements, it is the policy of the Department to take the highest balance of the month and then subtract the income that was deposited into the account. During the month of [REDACTED] 2014, the Appellant did reduce her assets below the program asset limit. Eligibility begins the following month after the applicant meets the asset limit and other program requirements. The Appellant's eligibility would have begun effective [REDACTED] 2014. During [REDACTED] 2014 the Appellant's assets exceeded the program asset limit.

During [REDACTED] 2015, the Appellant's assets were reduced below the program asset limit and remained below the asset limit for the following months. The Department correctly determined that the Appellant was not eligible for long-term care Medicaid benefits for the period of [REDACTED] 2014 through [REDACTED] 2015 and eligibility begins effective [REDACTED] 2015.

DECISION

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


Sybil Hardy
Hearing Officer

Pc: John Hesterberg, Operations Manager; DSS R.O. # 11; Manchester

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.