

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 # 744618

**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 Long-Term Care benefits under the Medicaid program for ██████████ 2015 through ██████████ 2015 and granting her benefits effective ██████████ 2015.

On ██████████ 2016, ██████████, the Appellant's Attorney (the "Appellant's Attorney"), requested an administrative hearing to contest the Department's decision to grant the Appellant's application for Medicaid benefits effective ██████████ 2015.

On ██████████ 11 2016, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████ 2016.

The hearing was rescheduled several times at the Appellant's Attorney's request. On ██████████ 2016 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 Person and Estate and son (via telephone)  
 Atty. ██████████, Appellant's Attorney  
 Leyla Miranda, Department's Representative  
 Sybil Hardy, 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 ██████████ 2015.

### FINDINGS OF FACT

1. On ██████████ 2011, voluntary conservatorship was granted to ██████████, the Appellant's Conservator (the "Conservator") for the Appellant. (Conservator's Testimony)
2. The Appellant remained in the community until ██████████ 2014. (Conservator's Testimony)
3. During ██████████ 2014, the Appellant was injured in a fall in her home and was admitted to ██████████ Hospital, ██████████ Connecticut. (Conservator's Testimony)
4. On ██████████ 2014, the Appellant was admitted to the skilled nursing facility, ██████████ Health Center, ██████████, Connecticut (the "nursing facility") after being discharged from the hospital. (Conservator's Testimony)
5. On ██████████ 2015, the Department received from the Appellant, a long-term care application request. (Exhibit 1: Eligibility Management System ["EMS"] Narrative Screen, Exhibit 10: We Need Verification From You ["W-1348LTC"] Form)
6. On ██████████ 2015, the Department denied the Appellant's application request for long-term care assistance because the requested information was not received by the deadline. (Hearing Record, Exhibit 1)
7. On ██████████ 2016, the Department received from the Appellant a new application request for long-term care assistance. (Exhibit 1, Exhibit 11: We Need Verification From You ["w-1348LTC"] Form, ██████████/15)
8. The Appellant is 81 years old (DOB ██████████/34) and lives in a skilled nursing facility. (Conservator's Testimony)

9. On [REDACTED] 2015, the Department sent the Conservator a W-1348 form requesting the following missing information: bank account information, Prudential life insurance policy information, property value information, funeral home contract, residency for [REDACTED] and verification of his assistance for past 2 years, letter from physician with diagnosis, property deeds for home in [REDACTED], Connecticut and [REDACTED], Puerto Rico, verification that assets are less than \$1,600.00. This information was due back to the Department by [REDACTED] 2015. (Exhibit 1, Exhibit 11: Verification We Need [“W-1348 LTC”] form.)
10. On [REDACTED] 2015, the Department received some of the missing information from the conservator. (Exhibit 1)
11. On [REDACTED] 2015, the Department sent the Conservator another W-1348 LTC form requesting the following information: Wells Fargo bank statements, verification of deposits and withdrawals over \$5000.00, Prudential life insurance policy value, value of property, funeral contract, letter from physician that [REDACTED]’ care prevented the Appellant from being institutionalized and verification that assets are less than \$1,600.00. Information is due by [REDACTED] 2015. (Exhibit 1, Exhibit 11)
12. On [REDACTED] 2015, the Department received several missing verifications from the Appellant. (Exhibit 1)
13. On [REDACTED] 2015, the Department sent to the Conservator another w-1348LTC requesting the following information: Additional Wells Fargo bank statements, Verification of Prudential life insurance policy, verification of address for [REDACTED] [REDACTED] letter from physician, verification that assets are less than \$1,600.00. Information is due by [REDACTED] 2015. (Exhibit 1, Exhibit 11)
14. On [REDACTED] 2015, the Department received several missing verifications from the Conservator. (Exhibit 1)
15. On [REDACTED] 2015, the Department sent another W-1348 form requesting the following verification from the Conservator: bank statements, verification that the life insurance policy was cashed out and transferred ownership to funeral home, property in Puerto Rico is up for sale, rental income, letter from physician. Information is due by [REDACTED] 2015. (Exhibit 1, Exhibit 11)
16. On [REDACTED] 2015, Prudential sent the Appellant a notice explaining that the Appellant had a life insurance policy with Prudential with a cash value of \$8,252.74. (Exhibit 3: Letter from Prudential, [REDACTED]/15)
17. On [REDACTED] 2015, the Department received missing verification from the Conservator. (Exhibit 1)
18. On [REDACTED] 2015, the Department sent to the Conservator another W-1348LTC form requesting the following information: look back information on Wachovia Bank accounts and Wells Fargo Bank accounts, verification of life insurance policy,

property in Puerto Rico up for sale, transfer of ownership of [REDACTED] Connecticut property or verification of rental income from both properties, irrevocable funeral contract, letter from physician. Information is due by [REDACTED] 2015. (Exhibit 1, Exhibit 11)

19. On [REDACTED] 2015, Prudential sent the Conservator a letter indicating that they received the request to transfer ownership of the Appellant's life insurance policy. They sent the Conservator of list of requirements needed to complete the change. (Exhibit C: Letter from Prudential, [REDACTED]/15)
20. On [REDACTED] 2015, the Department received from the Conservator a letter from the physician indicating that the Appellant's son prevented the Appellant from being institutionalized for a period of two years.
21. On [REDACTED] 2015, the Department sent to the Conservator another W-1348LTC requesting the following information: missing bank account statements for Wachovia Bank and Wells Fargo Bank, check received from Puerto Rico in the amount of \$6,525.00, verification property in Puerto Rico is listed for sale and rental income from the property, transfer of ownership of life insurance policy, transfer of ownership of [REDACTED] property or verification of rental income, irrevocable funeral contract, verification of assets are below \$1,600.00. Information is due by [REDACTED] 2015. (Exhibit 1, Exhibit 11)
22. On [REDACTED] 2015, the Department received the following missing information from the Conservator: request for transfer of ownership of life insurance policy to [REDACTED] Funeral Home, some of the missing bank statements for Wachovia Bank and Wells Fargo Bank, check from Department of [REDACTED], [REDACTED] for Section 8 payments due to the Appellant,
23. On [REDACTED] 2015, the Department sent the Conservator another W-1348LTC requesting the following missing information: contract for the sale of property in Puerto Rico, verification of transfer of ownership for [REDACTED], Connecticut property, irrevocable funeral contract (final document), verification that assets are below \$1,600.00. Information is due by [REDACTED] 2015 (Exhibit 1, Exhibit 11)
24. On [REDACTED] 2015, the Department received the following information from the Conservator: a letter from Wells Fargo Banks verifying accounts are closed, (Exhibit 1)
25. On [REDACTED] 2015, the Department sent the Conservatory another W-1348LTC requesting the following missing information: missing bank statements, verification property in Puerto Rico is listed for sale and rental income from the property, verification of transfer of ownership of [REDACTED], Connecticut property, rental income and expenses for the [REDACTED] property, verification that assets are below \$1,600.00. Information is due by [REDACTED] 2015. (Exhibit 1, Exhibit 11)
26. On [REDACTED] 2015, the Conservator renewed his conservatorship for the Appellant. (Exhibit D: Certificate of Conservatorship)

27. On [REDACTED] 2015, the Department received the following information from the Conservator: verification of when Wells Fargo Bank accounts closed, verification that property in Puerto Rico is listed for sale and rental income. (Exhibit 1)
28. On [REDACTED] 2015, the Department sent the Conservator another W-1348LTC requesting the following information: verification that property in [REDACTED] is transferred to Appellant's son, rental income for any tenants; verification of expenses from both properties, funeral contract and verification that assets are below \$1,600.00. The information is due by [REDACTED] 2015. (Exhibit 1, Exhibit 11)
29. On [REDACTED] 2015, the Department received the following verifications from the Conservator: verification that one account with Wachovia Bank is closed, rental income from property in Puerto Rico. (Exhibit 1)
30. On [REDACTED] 2015, the Department sent the Conservator another W-1348LTC form requesting the following information: Missing Well Fargo Bank statement, verify withdrawal of \$9,553.34 from Wachovia Bank account, verification that property in Puerto Rico is listed for sale, current expenses for property in Puerto Rico, verification that property in [REDACTED] Connecticut is transferred to Appellant's son, irrevocable funeral contract and verify assets are below \$1,600.00. This information is due by [REDACTED] 2015. (Exhibit 1, Exhibit 11)
31. On [REDACTED] 2015, the Department denied the Appellant's application for long-term assistance because the requested information was not provided timely. (Exhibit 1)
32. On [REDACTED] 2015, the Department re-opened the Appellant's application for long-term assistance effective [REDACTED] 2015. (Exhibit 1)
33. On [REDACTED] 2015, the Department sent the Conservator, the nursing facility and the Appellant's Attorney another W-1348LTC form requesting the following information: missing bank statements, withdrawal of \$9,553.34 from Wachovia Bank account, property transfer for [REDACTED] property, expenses for property, assets are below \$1,600.00. This information is due by [REDACTED] 2015. (Exhibit 1)
34. On [REDACTED] 2015, Prudential transferred ownership of the Appellant's life insurance policy to [REDACTED] Funeral Home, [REDACTED] Connecticut. (Exhibit 2: Letter from Prudential, [REDACTED]/15)
35. On [REDACTED] 2015, the Department received the following missing information from the Appellant: verification of taxes and water expense from [REDACTED] Connecticut property, application to transfer the [REDACTED] property [REDACTED] Appellant's son. (Exhibit 1)
36. On [REDACTED] 2015, the Department sent another W-1348LTC form to the conservator for the following missing information: missing Wells Fargo Bank statements; the withdrawal of \$9,553.34 for Wachovia Bank account; verification of expenses for property in Puerto Rico, homeowner's insurance for [REDACTED]

property; verification that assets are below \$1,500.00. This information is due by [REDACTED] 2015. (Exhibit1)

37. On [REDACTED] 2015, the Department received the following information for the Appellant: transfer of ownership of life insurance policy to [REDACTED] Funeral Home, verification of property taxes for property in Puerto Rico, verification that the Wells Fargo Bank account closed. (Exhibit 1)
38. On [REDACTED] 2015, the Department sent another W-1348LTC form to the Conservator for the following missing information: information on the withdrawal from Wachovia Bank; homeowners insurance for property in Puerto Rico, verify assets are below \$1,600.00. This information is due by [REDACTED] 2015. (Exhibit 1)
39. On [REDACTED] 2015, Probate Court ordered that the [REDACTED] property be sold by fiduciary to the Appellant's son for one dollar. The property remains in the Appellant's name. (Exhibit 1)
40. On [REDACTED] 2015, the Department received the following information for the Appellant: probate documents, property transfer to Appellant's son, homeowner insurance payments. (Exhibit 1)
41. On [REDACTED] 2015, the Department sent another W-1348LTC form to the Conservator for the following missing information: resident account statement, property transfer for [REDACTED] property, homeowner's insurance payments. This information is due by [REDACTED] 2015. (Exhibit 1)
42. On [REDACTED] 2015, the Department received the following information for the Appellant:
43. On [REDACTED] 2015, the Department sent another W1348 to the Appellant for the following missing information: information on a \$9,553.34 withdrawal from the Wachovia Bank account, transfer of [REDACTED] property, verification of homeowner's insurance. This information is due by [REDACTED] 2015. (Exhibit 1)
44. On [REDACTED] 2015, the Department received the following information from the Appellant: homeowner's insurance, deed. (Exhibit 1)
45. On [REDACTED] 2015, the Department sent another W-1348LTC form to the Appellant for the following missing information: information on \$9,553.34 withdrawal from Wachovia Bank account, verification that [REDACTED] property was transferred. This information is due by [REDACTED] 2015. (Exhibit 1)
46. On [REDACTED] 2015, the Department received the following information from the Appellant: land record showing [REDACTED] property was transferred, verification that the \$9,553.34 was used to open another bank account. All missing information received from the Appellant. (Exhibit 1)

47. On [REDACTED] 2015, the Department determined that 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 1)
48. 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 5: 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 the Department compare the assistance unit's equity in counted assets with the program asset limit when determining whether the unit is eligible for benefits and 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 bank accounts with Wachovia Bank and Wells Fargo Bank are owned by the Appellant.
9. The Department correctly determined that the life insurance policy with Prudential is owned by the Appellant.
10. 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.
11. The Department correctly determined that the accounts with Wachovia Bank, Wells Fargo Bank and the life insurance policy were accessible assets for the Appellant.
12. The Department correctly determined that the Appellant's assets exceeded the \$1,600.00 asset limit for period of [REDACTED] 2015 through [REDACTED] 2015.
13. 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.
14. The Department correctly determined that the Appellant was ineligible for Medicaid for the period of [REDACTED] 2015 through [REDACTED] 2015.
15. UPM § 1560.10 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 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 spend-down period when all non-procedural eligibility requires 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.
16. The Department correctly denied the Appellant's long-term care Application for the period of [REDACTED] 2015 through [REDACTED] 2015 because the Appellant's assets exceeded the Medicaid asset limit.



17. The Department correctly granted the Appellant's long-term care Medicaid benefits effective [REDACTED] 2015.

### DISCUSSION

After reviewing the testimony and evidence presented, I find that the Department correctly determined the effective date of the Appellant's long-term care Medicaid assistance is [REDACTED] 2015.

The Conservator provided testimony that it took a long time to transfer ownership of the [REDACTED] property and the life insurance policy with Prudential. The evidence does indicate that good effort was made in obtaining the necessary verification's to complete the Appellant's application. However, the assets were owned by the Appellant and accessible to Appellant during that time, therefore they must be counted as accessible assets by the Department.

During the month of [REDACTED] 2015, the Appellant's assets were reduced below the Medicaid program limits and remained below the asset limits for the following months. Regulations provide that the eligibility for the Medicaid program begins the first day of the month in which the assistance unit reduces it equity in counted assets to within the program asset limit. The Appellant's assets exceeded the program asset limit for the period of [REDACTED] 2015 through [REDACTED] 2015.

### DECISION

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

  
Sybil Hardy  
Hearing Officer

Pc: Peter Bucknall, Operations Manager; DSS R.O. # 60, Waterbury  
Karen Main, Operations Manager; DSS R.O. # 60, Waterbury  
Leyla Miranda, Fair Hearings Liaison, DSS R.O. # 60, Waterbury  
[REDACTED]

### **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.