

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 # 00766908

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2016, the Department of Social Services (the "Department") sent ██████████ (the "Appellant"), a Notice of Action ("NOA") granting Medicaid benefits effective ██████████ 2016, and a Notice of Action denying Medicaid benefits for the months of ██████████ and ██████████ 2016.

On ██████████ 2016, the Appellant's Representative requested an administrative hearing to contest the effective date of Medicaid benefits as determined by the Department.

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

On ██████████ 2016, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice rescheduling the administrative hearing by telephone for ██████████ 2016.

On ██████████ 2016, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice rescheduling the administrative hearing by telephone for ██████████ 2016, with a change in the assigned hearing officer.

On [REDACTED] 2016, 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 by telephone. The following individuals participated in the hearing by telephone:

[REDACTED], Applicant's Daughter and Power of Attorney
Shannon Bennett, Department's Representative
Shelley Starr, Hearing Officer

The Applicant, [REDACTED], was not present at the hearing due to her institutionalization at a long term care facility.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to grant Medicaid benefits effective [REDACTED] 2016, was correct.

FINDINGS OF FACT

1. On [REDACTED] 2016, the Department received from the Applicant's Representative, an application for Long Term Care Assistance ("LTSS") Medicaid. (Hearing Summary; Exhibit 1: W-1LTC dated [REDACTED] 2016)
2. Sometime in [REDACTED], the Applicant was admitted to Miller Memorial (the "Facility"), a nursing and rehabilitation facility. (Hearing Summary and Appellant's Representative's Testimony)
3. The Applicant is [REDACTED] years old (DOB [REDACTED]), married, and is anticipated to be a long term resident at Miller Memorial. (Representative's Testimony)
4. The Applicant's spouse, [REDACTED], is also a long term resident at Miller Memorial. (Representative's Testimony)
5. The Applicant's application for LTSS Medicaid was completed by her daughter who is her appointed Power of Attorney. (Exhibit 1: W-1LTC application received [REDACTED] 2016)
6. On [REDACTED] 2016, the Department sent a W-1348 LTC Verification We Need form to the Applicant's Representative requesting proof of the face and surrender values of the Applicant's Mutual of Omaha insurance policy, Bank of America account statements, proof of Anthem premium, completed W-1685 form and for all accounts with transactions of \$5,000.00 or more copies of bills, receipts or cancelled checks. 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] 2016. (Exhibit 2: W-1348LTC dated [REDACTED] 2016.)

7. The Applicant is the owner and insured of the Mutual of Omaha Life Insurance Policy # [REDACTED]. The face value of the policy # [REDACTED] was \$5,000.00 and the cash surrender value was \$3,308.47. (Applicant's Representative's Testimony; Exhibit 7: Copy of surrender check for Mutual of Omaha policy # [REDACTED])
8. On [REDACTED] 2016, Applicant's Representative faxed a request to United of Omaha Life Insurance Company requesting the closure of the Applicant's life insurance policy # [REDACTED] (Exhibit 3: faxed confirmation of surrender request dated [REDACTED] 2016; Appellant's Exhibit B: Timeline)
9. The Department sent the Applicant's Representative two (2) additional W-1348 LTC forms requesting information including the United of Omaha Life Insurance policies face value and cash surrender value. (Exhibit 4: W-1348 LTC dated [REDACTED] 2016 and Exhibit 6: W-1348 LTC dated [REDACTED] 2016; Hearing Summary; Department's Testimony).
10. For the period of [REDACTED] 2016 through [REDACTED] 2016, the Applicant had the following assets and balances: Bank of America account # [REDACTED] \$2,515.18, Bank of America account # [REDACTED] \$6,048.66, United of Omaha Life insurance policy # [REDACTED], cash surrender value \$3,308.47. The Bank of America accounts were jointly owned by the Applicant and her spouse, and the balances were divided by two. (Exhibit 13: Department's calculation of assets; Exhibit 14: Bank of America statements; Exhibit 15: Bank of America statements; Exhibit 7: Mutual of Omaha policy surrender check)
11. For the month of [REDACTED] 2016, the Applicant's total countable assets and balances was \$7,590.39 (\$1,257.59 (acct # [REDACTED] + \$3,024.33 (acct # [REDACTED] + \$3,308.47 (CSV Policy # [REDACTED] = \$7590.39. (Exhibit 13: Department's calculation of assets; Exhibit 14: Bank of America statements; Exhibit 15: Bank of America statements; Exhibit 7: Mutual of Omaha policy surrender check)
12. For the period of [REDACTED] 2016 through [REDACTED] 2016, the Applicant was over the \$1,600.00 asset limit. (Exhibit 14: Bank of America Statements; Exhibit 15: Bank of America Statements; Exhibit 7: Mutual of Omaha policy surrender checks)
13. For the period of [REDACTED] 2016 through [REDACTED] 2016, the Applicant had the following assets and balances: Bank of America account # [REDACTED] \$1,563.00, Bank of America account # [REDACTED] \$627.32. United of Omaha Life insurance policy # [REDACTED], cash surrender value \$3,308.47. The Bank of America accounts were jointly owned by the Applicant and her spouse and the balances were divided by two. (Exhibit 13: Department's calculation of assets; Exhibit 14: Bank of America statements; Exhibit 15: Bank of America statements; Exhibit 7: Mutual of Omaha policy surrender check)

14. The Applicant's total countable assets and balances for the month of [REDACTED] 2016 was \$ 4,403.63 (\$781.50 (acct # [REDACTED]) + \$313.66 (acct # [REDACTED] + \$3,308.47 (CSV Policy # [REDACTED] = \$4,403.63. (Exhibit 13: Department's calculation of Assets; Exhibit 14: Bank of America Statements; Exhibit 15: Bank of America Statements; Exhibit 7: Mutual of Omaha policy surrender check)
15. For the period of [REDACTED] 2016 through [REDACTED] 2016, the Applicant was over the \$1,600.00 asset limit. Exhibit 14: Bank of America Statements; Exhibit 15: Bank of America Statements; Exhibit 7: Mutual of Omaha policy surrender checks)
16. On [REDACTED] 2016, the Applicant's Mutual of Omaha Life Insurance Policy # [REDACTED] was surrendered for its cash value. The Applicant was issued a check on [REDACTED] 2016 for \$3,308.47. (Exhibit 7: Mutual of Omaha surrender check dated [REDACTED] 2016; Applicant's Representative's Testimony)
17. On [REDACTED] 2016, the Applicant's Representative used the \$3,308.47 proceeds from the surrendered Mutual of Omaha Life Insurance Policy # [REDACTED] to pay Miller Memorial for cost of care. A Bank of America check # [REDACTED] was issued on [REDACTED] 2016 payable to Miller Memorial Community for \$3,308.47. (Exhibit 8: check image # [REDACTED] Representative's Testimony; Hearing Summary)
18. On [REDACTED] 2016, the Applicant reduced her assets under the \$1,600.00 asset limit.
19. On [REDACTED] 2016, the Department granted Medicaid for long term care assistance effective [REDACTED] 2016, the first month the Applicant was under the \$1,600.00 asset limit. The Department denied the months of [REDACTED] and [REDACTED] 2016 for having assets more than the amount allowed. (Hearing Summary, Department's Testimony and Exhibit 24: [REDACTED] 2016 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. Section 17b-261(c) of the Connecticut General Statutes 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 (A) (2) 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 Applicant's life insurance policy as accessible until it was cashed and used for cost of care.
13. The Department correctly determined that the Applicant's assets exceeded the Medicaid asset limit of \$1,600.00 and that she was ineligible for the months of [REDACTED] and [REDACTED] 2016 .
14. The Applicant's assets were reduced to within the Medicaid asset limit in [REDACTED] 2016.

15. The Department correctly determined that the Applicant is asset eligible for long term care Medicaid effective [REDACTED] 2016.

DISCUSSION

After reviewing the evidence and testimony presented, I find the Department correctly determined the effective date of the Applicant'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 record reflects that the Applicant's assets were within the Medicaid limits effective [REDACTED] 2016, the month in which the Mutual of Omaha life insurance policy was surrendered and properly reduced. Prior to [REDACTED] 2016, the value of the cash surrender of the life insurance policy was accessible to the Appellant and exceeded the Medicaid asset limit.

The Applicant's Representative was promptly pursuing the surrender of the insurance policy and requested the surrender to the insurance company within five days from applying for Medicaid. It is clear that the policy was accessible and available to the Applicant as it took less than two months total duration of time from the start of the surrender process to the time the insurance company issued a surrender check.

Based on policy and regulations, the Department properly denied the Applicant assistance for the months of [REDACTED] and [REDACTED] 2016 and granted the month of [REDACTED] 2016, the month he became asset eligible.

DECISION

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



Shelley Starr
Hearing Officer

cc: Tyler Nardine, Operations Manager, Middletown 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.