

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#775929

NOTICE OF DECISION

PARTY

██████████ (Deceased)
C/o ██████████
██████████
██████████

PROCEDURAL BACKGROUND

The Department of Social Services (“the Department”) issued a Notice of Action (“NOA”) to ██████████ (“the Appellant”) advising her that it had denied her long-term care Medicaid application for the months of ██████████ 2015 – ██████████ 2016 and had granted her application for long-term care Medicaid effective ██████████ 2016.

On ██████████ 2016, the Appellant requested an administrative hearing to contest the Department’s determination of the effective date of long-term care Medicaid benefits.

On ██████████ 2016, the Office of Legal Counsel, Regulations, and Administrative Hearings, (“OLCRAH”) issued a notice scheduling an administrative hearing for ██████████ 2016, to address the effective date of assistance.

The Appellant’s representative requested that the ██████████ 2016 hearing be rescheduled. This request was granted. On ██████████ 2016, OLCRAH issued a notice rescheduling the Appellant’s hearing to ██████████ 2016.

The Appellant’s representative requested that the ██████████ 2016 hearing appointment be rescheduled. This request was granted. On ██████████ 2016, OLCRAH issued a notice rescheduling the Appellant’s hearing to ██████████ 2016.

The Appellant's representative requested that the [REDACTED] 2016 hearing be rescheduled. This request was granted. On [REDACTED] 2016 OLCRAH issued a notice rescheduling the Appellant's hearing to [REDACTED] 2016.

On [REDACTED] 2016, 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:

[REDACTED], Appellant's Daughter/Representative
[REDACTED], Appellant's Son/Representative
Kristen Bert, 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] 2016.

FINDINGS OF FACT

1. The Appellant was a resident of Pilgrim Manor. (Hearing record)
2. The Appellant applied for long-term care Medicaid on [REDACTED] 2015. (Eligibility Management System STAT screen print - Department's exhibit 7, Department's representative's testimony)
3. The Appellant seeks Medicaid long-term care coverage effective [REDACTED] 2015. (Appellant's representative's testimony)
4. As of the end of the month in which the Appellant applied for Medicaid, [REDACTED] 2015, the Appellant's assets included joint Webster Bank checking account # [REDACTED] holding \$247.49, and joint Webster Bank checking account # [REDACTED] holding \$4,096.50. (Copy of bank statements – Department's exhibit 1)
5. As of [REDACTED] 2016, the Appellant's assets included joint Webster Bank checking account # [REDACTED] holding \$100.50, and joint Webster Bank checking account # [REDACTED] holding \$10,011.04. (Department's exhibit 1, Appellant's representative's testimony)
6. The funds held in joint Webster Bank account # [REDACTED] and in account # [REDACTED] belonged mostly to the Appellant, although co-mingled with funds belonging to her disabled daughter. (Appellant's representative's testimony)

7. In [REDACTED] 2016, the Appellant reduced her assets to \$1,523.91. Webster Bank account # [REDACTED] held \$23.50 and Webster Bank account # [REDACTED] held \$1,500.41. (Department's exhibit 1, Appellant's representative's testimony)
8. The Appellant expired on [REDACTED] 2016. (Hearing record)
9. On [REDACTED] 2016, the Department denied the Appellant's request for Medicaid for the months of [REDACTED] 2015 and [REDACTED] 2016, due to assets in excess of the program asset limit. (Notice dated [REDACTED] 2016 – Department's exhibit 4)
10. On [REDACTED] 2016, the Department granted Medicaid to the Appellant effective [REDACTED] 2016, the month in which she reduced her assets to an allowable level. (Department's exhibit 4)

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.

The Department was correct to evaluate the Appellant's bank accounts as assets in determining Medicaid eligibility.

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.

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.

UPM § 4010.10(A)(1) provides that subject to the limitations described below, personal property such as a bank account held jointly by the assistance unit and another person is counted in full toward the asset limit.

UPM § 4010.10(A)(3) provides that (a) an individual other than the spouse of an assistance unit member is considered merely the record owner of an account or similar asset held jointly with the unit member. (b) The assistance unit may rebut the Department's finding by providing clear and convincing evidence that the individual

is legal owner of the asset.

UPM § 4010.10(A)(4) states that if the assistance unit proves that it is merely the record owner of part or all of the asset, the Department counts only the portion of the asset legally owned by the assistance unit.

The Department was correct to consider that the Appellant had the legal right, authority or power to obtain funds held in her two bank accounts in [REDACTED] 2015 and [REDACTED] 2016 and that they were available assets for Medicaid eligibility purposes.

4. UPM § 4030.05(B) provides that 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 that assistance unit deposits into the account that month from the highest balance in the account for that month.

The Department correctly excluded the income directly deposited into each checking account when determining asset eligibility for Medicaid.

5. 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.

The value of the Appellant's bank accounts in [REDACTED] 2015 of \$4,353.99 exceeded the Medicaid asset limit of \$1,600.00.

The value of the Appellant's bank accounts in [REDACTED] 2016 of \$10,111.54 exceeded the Medicaid asset limit of \$1,600.00.

6. 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.

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.

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.

The Appellant's assets were reduced to within the Medicaid asset limit in [REDACTED] 2016.

The Department correctly determined that the Appellant is asset eligible for and granted long-term care Medicaid effective [REDACTED] 2016.

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] 2016. Asset eligibility does not exist in this case until [REDACTED] 2016.

The Appellant's daughter points to Uniform Policy Manual Section 3029.10 (C) and argues that the transfer of funds in the two accounts at issue should be exempt from asset eligibility consideration because she is a disabled individual and is allowed to transfer assets of any type without penalty.


The UPM defines transfer of asset as the conveyance of interest in property, the disposal of an asset in some way or the failure to exercise one's right to property.

In this case, a transfer of assets had not occurred during the months of [REDACTED] 2015 or [REDACTED] 2016. The bank accounts remained in the Appellant's name held jointly with her daughter. The Appellant had the legal right to the funds held in the accounts, the funds were available and their total exceeded the program asset limit.

The provisions of UPM Section 3029.10 do not apply to this case.

DECISION

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


Pamela J. Gonzalez
Hearing Officer

Copy: Tyler Nardine, SSOM, R.O. #50, Middletown
Kristen Bert, ESW, R.O. #20, New Haven
Attorney [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 06105-3725.

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.