

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 # 781203

NOTICE OF DECISION

PARTY

██████████

In Re: ██████████

PROCEDURAL BACKGROUND

On ██████████ 2016, the Department of Social Services (the "Department") sent ██████████ ("Appellant") a Notice of Action ("NOA") granting his application for Long-Term Care benefits under the Medicaid program effective ██████████ 2016.

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

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

The administrative hearing was rescheduled several times at the Authorized Representative'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:

[REDACTED] POA and daughter (via telephone)
 Susan Debevec, Bloomfield Center for Nursing and Rehabilitation Representative
 Lori Sirois, Department's Representative
 Victor Sirois, 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 determined that the effective date of the Appellant's long-term care Medicaid assistance is [REDACTED] 2016.

FINDINGS OF FACT

1. On [REDACTED] 2016, the Appellant was admitted to the skilled nursing facility, Bloomfield Center for Nursing and Rehabilitation (the "Nursing Facility"), [REDACTED] Connecticut. (Exhibit 1: Long-term Care/Waiver ["W-1LTC"] Application, [REDACTED] 16, Exhibit 10: Statement from Bloomfield Center for Nursing and Rehabilitation)
2. On [REDACTED] 2016, the Appellant's Daughter [REDACTED], (the "POA") was granted Power of Attorney. (Exhibit 11: Power of Attorney)
3. The Appellant was 82 years old (DOB [REDACTED] 34), divorced and lived in a skilled nursing facility. (POA's Testimony, Exhibit 1, Exhibit 5)
4. Prior to being admitted to the nursing facility, the Appellant lived in the community at [REDACTED]. (Exhibit 1)
5. The Appellant received a monthly payment from the Social Security Administration ("SSA") for the amount of \$1,267.00. These benefits were directly deposited into the Appellant's bank accounts. (Exhibit 1, Exhibit 3: Santander Bank Statement)
6. Effective [REDACTED] 2016, the Appellant had the following assets:

Name of Asset	Balance	Owner
Computershare	\$8,620.68	Appellant
Santander Bank CH [REDACTED]	\$ 1,763.55	Appellant
Total	\$10,384.23	

(Exhibit 1, Exhibit 3, Exhibit 4: Computershare Dividend and Payment Statement)

7. On [REDACTED] 2016, the Department sent the Appellant a NOA indicating that his application for long-term care medical assistance received on [REDACTED] 2016 was denied because his assets exceeded the program asset limit. (Exhibit 9: NOA, [REDACTED] 16)
8. On [REDACTED] 2016, the POA sold the Appellant's stocks with Computershare for \$8,481.38 and deposited the money into the Appellant's Santander checking account. (Exhibit 3, Exhibit 4, Exhibit 5: Eligibility Management System ["EMS"] Narrative Screen)
9. On [REDACTED] 2016, the Appellant passed away. (POA's Testimony, Hearing Record, Exhibit 5)
10. On [REDACTED] 2016, the Department received a new application on the Appellant's behalf for long-term care medical assistance. (Exhibit 1: Online Application for Long Term Care Medical Assistance, Exhibit 5)
11. On [REDACTED] 2016, the Department sent the POA and the nursing facility a Verification We Need ("W-1348LTC") Form requesting the following information: verification of proceeds from Computershare stock, Santander bank statements going back to [REDACTED] 2016, funeral contract with [REDACTED] Funeral Home or expenses paid for services. (Exhibit 2: W-1348LTC [REDACTED] 16)
12. The POA had some difficulty getting all of the Appellant's asset information with Computershare. (POA's Testimony)
13. The POA requested assistance from the Department getting the information from Computershare. (POA's Testimony)
14. On [REDACTED] 201, the POA paid [REDACTED] Funeral Home \$8,000.00 for the Appellant's funeral services. (Exhibit 3, Exhibit 5)
15. On [REDACTED] 2016, the Department received following information from the POA: Appellant's Santander bank statement and funeral expenses. (Exhibit 5)
16. The Department received the Appellant's stock information directly from Computershare. (Appellant's Testimony)
17. Prior to the last day of [REDACTED] 2016, the Appellant's assets were below the \$1,600.00 asset limit for the Medicaid program and remained below the asset limit. (Exhibit 3, Exhibit 5)
18. On [REDACTED] 2016, the Department sent a NOA to the POA indicating that the Appellant was eligible for Long-Term Care benefits under the Medicaid program effective [REDACTED] 2016. (Exhibit 9: NOA [REDACTED] 16)

19. The Appellant has an outstanding bill of \$17,625.00 with the nursing facility for the period of [REDACTED] 2016 through [REDACTED] 2016. (Exhibit 10)

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") § 1505.10(D)(1) provides that for AFDC, AABD and MA applications, except for the Medicaid coverage groups noted below in 1510.10(D)(2), the date of application is considered to be the date that a signed application form is received by any office of the Department.
3. The Department correctly determined that the Appellant's application date is [REDACTED] 2016.
4. 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.
5. UPM § 4030 provides that the Department evaluates all types of assets available to the assistance unit when determining the unit's eligibility for benefits.
6. 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.
7. 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.

8. 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.
9. UPM § 4005.10 (A)(2)(a) provides that the asset limit for Medicaid for a needs group of one is \$1,600.
10. The Department correctly determined that the Appellant's assets exceeded the \$1,600.00 asset limit prior to [REDACTED] 2016.
11. 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.
12. 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.
13. The Department correctly determined that the Appellant was within the asset limit for the Medicaid program prior to [REDACTED] 2016.
14. The Department correctly determined that the Appellant was eligible for Medicaid for the period of [REDACTED] 2016.
15. The Department correctly granted the Appellant's long-term care Medicaid benefits effective [REDACTED] 2016.

DECISION

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

Sybil Hardy
Sybil Hardy
Hearing Officer

Pc: Musa Mohamud, Operations Manager; DSS R.O. # 10, Hartford
Lori Sirois, Fair Hearings Liaison, DSS R.O. # 10, Hartford
Victor Robles, Fair Hearings Liaison, DSS R.O. # 10, Hartford

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.