STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3725

[redacted] **2016**
Signature Confirmation Mail

CL ID #[redacted]
Request ID#781251

NOTICE OF DECISION

PARTY

[redacted] (Deceased)
[redacted]
[redacted]

PROCEDURAL BACKGROUND

On [redacted] 2016, the Department issued a Notice of Action ("NOA") to [redacted] ("the Appellant") advising her that it had denied her long-term care Medicaid application.

On [redacted] 2016, the Appellant requested an administrative hearing to contest the Department's denial of Medicaid benefits.

On [redacted] 2016, the Office of Legal Counsel, Regulations, and Administrative Hearings, ("OLCRAH") issued a notice scheduling an administrative hearing for [redacted] 2016, to address the denial of long-term care Medicaid.

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 Son
[redacted], Appellant's Daughter-in-Law
Nedra Pierce, Department's Representative
Pamela J. Gonzalez, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether the Department correctly denied the Appellant's application for long-term care Medicaid due to excess assets.

FINDINGS OF FACT

1. The Appellant applied for long-term care Medicaid on [redacted] 2016. (Notice dated [redacted] 2016 – Department's exhibit 3)

2. The Appellant's assets included two Prudential life insurance policies each with a face value of $5,000.00. (Prudential statements – Department's exhibit 7)

3. The net cash surrender values of the Appellant's two life insurance policies total $3, 550.06 and $633.13. Together, the cash surrender value of the two life insurance policies total $4,183.19. (Department's exhibit 7)

4. The Appellant's assets included a Bank of America checking account into which her husband's income was directly deposited and a savings account. (Bank of America statements – Department's exhibit 7)

5. The balance in the Bank of America checking and savings accounts totaled $802.41 as of [redacted] 2016. (Department's exhibit 7)

6. On [redacted] 2016, the Department sent to the Appellant a W-1348 Verification We Need Form indicating that her assets were in excess of the program asset limit and asking that she provide verification that they were properly spent down to an allowable level. The requested verification was due to be returned to the Department by [redacted] 2016. (Form W-1348 – Department's exhibit 1)

7. The W-1348 Form sent on [redacted] 2016 notified the Appellant that there is no eligibility for Title 19 Long Term Care benefits in any month in which counted assets exceed $1,600.00. (Department's exhibit 1)

8. On [redacted] 2016, the Department received contact from Medicaid 4 You indicating that the Appellant passed away on [redacted] 2016 and her spouse passed on [redacted] 2016. The family was requesting help with the application. (Eligibility Management System NARR screen print – Department's exhibit 4, Department's representative's testimony)

9. On [redacted] 2016, the Department issued another W-1348 Verification We Need Form indicating that the Appellant's assets were in excess of the program asset limit and asking for verification that they were properly spent down to an allowable level. The requested verification was due to be returned to the Department by [redacted] 2016. (Form W-1348 – Department's exhibit 2)

10. The W-1348 Form sent on [redacted] 2016 notified the Appellant that there is no eligibility for Title 19 Long Term Care benefits in any month in which counted assets exceed $1,600.00. (Department's exhibit 2)

11. The Department did not receive verification that the Appellant's assets had been spent down to an allowable level by the deadline of [redacted] 2016. (Department's representative's testimony, Hearing record)

12. On [redacted] 2016, the Department denied the Appellant's application for Medicaid because her assets were in excess of the program asset limit of $1,600.00. (Department's exhibit 3, Department's representative's testimony)

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.

   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.

   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.

   The Department was correct to consider that the Appellant had the legal right, authority or power to obtain her Prudential life insurance (two policies) and her bank accounts at Bank of America and that they were available assets for Medicaid eligibility purposes.

2. UPM § 4030.30(C)(1) provides that if the total of the face value of all life insurance policies owned by the individual does not exceed $1,500.00, the cash surrender value of such policies is excluded. In computing the face value of life insurance, the Department does not count insurance such as term insurance, which has no cash surrender value.

   UPM § 4030.30(C)(2) provides that except as provided above, the cash surrender value of life insurance policies owned by the individual is counted toward the asset limit.

UPM § 4030.05 discusses the treatment of specific types of bank accounts and lists savings accounts and checking accounts as countable assets for Medicaid eligibility purposes.

The Department correctly included the Appellant's life insurance cash surrender value and the value of the Appellant's bank accounts in its determination of her asset eligibility.

3. 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 § 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 Prudential Life Insurance policies and Bank of America accounts were not excluded from consideration by state or federal law, and were available to the Appellant because she had the legal right, authority, or power to obtain them or to have them applied for her general or medical support.

   As of [redacted] 2016 through the date of the Appellant's death in [redacted] 2016, the value of her life insurance assets together with the value of her bank accounts ($4,183.19 + $802.41) exceeded the Medicaid asset limit of $1,600.00.

4. 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.

   The Appellant's assets had not been reduced to an allowable level prior to her death.

   The Department correctly determined that the Appellant's assets were in excess of the Medicaid asset limit of $1,600.00 for the months of [redacted] 2016 – [redacted] 2016 and denied the Appellant's Medicaid application.

DISCUSSION

After reviewing the evidence and testimony presented, I find that the Department correctly denied the Appellant's Medicaid application due to excess assets.

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] 2016 and [redacted] 2016.

The Appellant's representative explained his parents' circumstances and indicated that although in the process, he was unable to complete the asset reduction prior to his mother and his father's death.

I have no authority to grant an exception to the regulations and find no error with the Department's denial of Medicaid in this case.

DECISION

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

Pamela J. Gonzalez
Hearing Officer

Copy: Lisa Wells, SSOM, R.O. #20, New Haven
Cheryl Stuart, SSPM, #20, New Haven
Brian Sexton, SSOM, #20, New Haven
Nedra Pierce, ES Specialist, #20, New Haven
[redacted], [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.