

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

██████████ 2017  
Signature Confirmation

Client ID # ██████████  
Request # 801909

NOTICE OF DECISION

PARTY

██████████  
██████████  
██████████

In Re: ██████████

PROCEDURAL BACKGROUND

On ██████████, 2016, the Department of Social Services (the "Department") issued a notice to ██████████ ("the Appellant") approving a Special Benefit payment in the amount of \$834.95 payable to ██████████ Inc. on behalf of ██████████ (the "Applicant").

On ██████████ 2016, the Appellant, the Applicant's son and Power of Attorney ("POA"), requested an administrative hearing to contest the amount of the Special Benefit.

On ██████████ 2016, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling an administrative hearing for ██████████ 2017.

On ██████████ 2017, 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, Applicant's Power of Attorney and son  
Jeff Sheldon, Department's Representative  
Marci Ostroski, Hearing Officer

### **STATEMENT OF THE ISSUE**

The issue is whether the Department correctly issued the correct amount of funeral and burial expenses paid to [REDACTED] Funeral Home under the Medicaid program.

### **FINDINGS OF FACT**

1. The Applicant lived in a skilled nursing facility. (Hearing Record, Appellant's testimony)
2. On [REDACTED], 2016, the Applicant passed away at the Nursing Facility. (Hearing Summary)
3. The Applicant was a recipient of the Medicaid program at the time of her death. (Hearing Record, Ex. 1: STAT screen)
4. On [REDACTED] 2016, the Applicant was the owner of account ending [REDACTED] with Bank of America with a balance of \$111.86, account ending [REDACTED] with Bank of America with a balance of \$124.71, and account ending [REDACTED] with Bank of America with a balance of \$128.48. The total funds available were \$365.05 which became part of her Estate. (Ex. 2: Bank of America, DSS Response Form)
5. The Appellant's name was on account numbers ending [REDACTED] and [REDACTED] as a joint owner. The Appellant managed the account for the Applicant. He deposited the Applicants income into all three accounts each month while she resided in the skilled nursing facility. The Appellant did not have income in the last seven years to contribute to the accounts. (Ex. 2: Bank of America, DSS Response form, Appellant's testimony)
6. The Department received a funeral bill, a certified death certificate for the Applicant, and a request for payment of \$1200.00 from [REDACTED] Funeral Home. (Department's testimony)
7. The total cost of the Applicant's funeral was \$3600.00. The Appellant contributed \$2400.00. (Appellant's testimony)
8. The Applicant has no other burial benefits. (Appellant's Testimony)
9. The maximum standard funeral and burial payment is \$1,200.00. (Hearing Record)
10. The Applicant's estate contributed \$365.05 to the cost of her funeral expenses. (Hearing record, Appellant's testimony)

11. On [REDACTED], 2016, the Department sent the Appellant a notice indicating that payment was approved to be issued to [REDACTED] Inc. in the amount of \$834.95 toward the Applicant's burial expenses. (Ex. 3: Notice of Action; Approval of Special Benefit, [REDACTED]/16)

### CONCLUSIONS OF LAW

1. Connecticut General Statute § 17b-2 provides that the Commissioner of the Department of Social Services to administer the Medicaid program.
2. Public Act 16-3 (May Special Session, Sec. 45. Section 17b-131) effective July 1, 2016, provides, in relevant part that when a person in any town, or sent from such town to any licensed institution or state humane institution, dies or is found dead therein and does not leave sufficient estate [or] and has no legally liable relative able to pay the cost of a proper funeral and burial, or upon the death of any beneficiary under the state-administered general assistance program, the Commissioner of Social Services shall give to such person a proper funeral and burial, and shall pay a sum not exceeding one thousand [four] two hundred dollars as an allowance toward the funeral expenses of such [deceased, said] decedent. Said sum [to] shall be paid, upon submission of a proper bill, to the funeral director, cemetery or crematory, as the case may be. Such payment for funeral and burial expenses shall be reduced by (1) the amount in any revocable or irrevocable funeral fund, (2) any prepaid funeral contract, (3) the face value of any life insurance policy owned by the decedent, and (4) the net value of all liquid assets in the decedent's estate and (5) contributions in excess of three thousand [two] four hundred dollars toward such funeral and burial expenses from all other sources including friends, relative and all other person, organizations, [veterans' and other benefit programs and other] agencies, veterans' programs and other benefit programs.
3. Uniform Policy Manual ("UPM") § 8080.90(B)(1) provides that except for the following, the rules for payment of funeral and burial expenses under SAGA are the same as in the AFDC program.
  - a. The Department pays funeral and burial expenses for a deceased individual who was not a recipient of TFA, AFDC or AABD at the time of death when the individual:
    - (1) dies without sufficient estate to pay the expenses; and
    - (2) has no legally liable relatives who are able to pay the expenses.
  - b. The amount of the Department's payment is reduced by certain contributions.
4. UPM § 8080.90(B)(3) provides that a deceased individual is eligible for SAGA burial expenses if:
  - a. the net value of his or her estate, and/or all actual and expected legally liable relatives' contributions and/or the value of all other countable

contributions in excess of \$3,200.00, is less than \$1,200.00 (effective July 1, 2016) or the amount of the funeral bill, whichever is less; and

- b. he or she was a Connecticut resident at the time of death, according to Department rules; and
  - c. the deceased individual also met the SAGA town residency requirements at the time of death. (Cross Reference: 8080.30)
5. UPM § 8080.90(B)(4)(b) provides that
- a. There is no asset limit or transfer of asset test for SAGA burial cases.
  - b. Assets in the estate include but are not limited to:
    - (1) Liquid assets including cash, bank accounts, stocks, bonds and mortgages; and
    - (2) The face value of insurance policies issued on the life of the deceased individual; and
    - (3) Real and personal property, including home owned property, motor vehicles, and the value of a burial plot or any burial reserve accounts.
  - c. The entire amount remaining after subtracting the costs of administering the estate from the total assets of the estate, together with the face value of any insurance policies issued on the life of the deceased, shall be considered available to apply to cost of burial.
6. UPM § 8080.90(B)(8) provides that
- a. The standard of payment for a SAGA funeral and burial is \$1,400, (\$1200.00 effective July 1, 2016) or the actual cost of the funeral and burial, whichever is less. The payment is made directly to the funeral home.
  - b. The amount of the payment is reduced by all of the following:
    - (1) the net value of the deceased's estate, including the face value of any insurance policies issued on the life of the deceased; and
    - (2) the actual or expected contribution from legally liable relatives, whichever is higher; and
    - (3) the excess value of cash and in-kind contributions from other sources.
  - c. The value of any Social Security death benefit that is paid to a legally liable relative is:
    - (1) counted as income when calculating the relative's expected contribution; or

- (2) treated as a contribution when it is paid toward the cost of the burial by a legally liable relative.
7. UPM § 4010.10 (A)(1) provides for determination of ownership for assets held jointly Subject to the limitations described below, personal property such as a bank account held jointly by the assistance unit and by another person is counted in full toward the asset limit.
  8. UPM § 4010.10 (A)(3)(a-b) provides 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.
    - a. This is true regardless of the time period the individual has been joint holder of the asset.
    - 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.
  9. The Department correctly determined that the full value of the Appellant's three bank accounts with Bank of America were part of the Applicant's Estate and could be applied to the cost of burial.
  10. The Department correctly determined that the Appellant was not the legal owner of the assets in question.
  11. The Department correctly determined that the Applicant's Estate contributed \$365.05 towards the cost of her funeral expenses.
  12. The Department correctly determined that the correct payment for funeral and burial services is \$834.95 (\$1,200.00 – 365.05)
  13. The Department correctly issued a payment of \$834.95 to [REDACTED] Funeral Home for the Applicant's funeral expenses.

### **DISCUSSION**

The Department's action to reduce the funeral benefit amount based on the assets available to the Applicant at the time of her death is upheld. The Appellant's argument that his name was on the accounts and he was therefore owner of the accounts is not supported by the current State of Connecticut regulations. Although his name was on two of the accounts as a joint owner, the Appellant failed to provide clear and convincing evidence as outlined in Department policy that he was the sole legal owner of the assets. His testimony at the hearing, in fact, supported that the funds in the accounts originated from the Applicant's resources. As the total amount of the funds

were available to the Applicant, they are counted in full as an asset of her estate and therefore the Department was correct to reduce the funeral payment based on the estate's contributions to the funeral costs.

**DECISION**

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

*Marci Ostroski*

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Marci Ostroski  
Hearing Officer

Cc: Lisa Wells, Operations Manager, DSS R.O. # 20, New Haven  
Brian Sexton, Operations Manager, DSS R.O. # 20, New Haven  
Cheryl Stuart, Program Manager, DSS R.O. #20, New Haven  
Jeff Sheldon, Resources Lead Investigator, DSS R.O #20 New Haven  
Aimee Yucas, Resources Supervisor DSS R.O. #20, New Haven

### **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.