

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

[REDACTED], 2017
Signature Confirmation

Client ID#: [REDACTED]
Hearing ID#: 805254

NOTICE OF DECISION

PARTY

C/O
[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED] 2016, the Department of Social Services (the "Department") sent [REDACTED] (the "Appellant") a Notice of Action ("NOA") granting long term care medical assistance under the Medicaid program effective [REDACTED] 2016.

On [REDACTED] 2016, [REDACTED], the Appellant's representative requested an administrative hearing to contest the Department's decision to deny certain months of benefits.

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

On [REDACTED], 2017, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-189 of the Connecticut General Statutes, inclusive, OLCRAH held an administrative hearing. The following individuals were present at the hearing:

[REDACTED], Appellant's Authorized Representative
[REDACTED], [REDACTED] for the Appellant
Jason Bezzini, Department's Representative
Carla Hardy, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly granted the Appellant's Medicaid for Long Term Care assistance effective [REDACTED] 2016.

FINDINGS OF FACT

1. Prior to [REDACTED] 2016, the Appellant became a resident at Lutheran Home ("the facility") in [REDACTED] CT (Exhibit 3: Case Narrative).
2. The Appellant receives \$1,393.00 per month in Social Security benefits (Exhibit 17: Wells Fargo account # [REDACTED] [REDACTED]/16-[REDACTED]/16 bank statement).
3. On [REDACTED] 2016, the Appellant's representative applied for long term care medical assistance under the Medicaid program (Hearing Record).
4. The Asset limit for Long Term Care Medical Assistance is \$1600.00 (Exhibit 5: W-1348LTC).
5. On [REDACTED] 2016, the Department mailed the Appellant's representative a Verification We Need ("W-1348LTC") form requesting verifications that were needed to establish eligibility. Among the items requested were explanations for all transactions of \$5,000.00 or more; bank statements for the Wells Fargo and People's bank accounts; Wells Fargo IRA # [REDACTED] statements from [REDACTED]/2014 to the present and an explanation of where the funds totaling \$5,625.75 from the Wells Fargo IRA were disbursed to in 2013. The W-1348LTC also informed the Appellant that the Met Life policy [REDACTED] with the \$4,029.48 cash value counted toward the \$1,600.00 asset limit and offered suggestions on how to reduce its value. The requested information was due by [REDACTED], 2016 (Exhibit 5: W-1348LTC #1, [REDACTED]/16).
6. On [REDACTED] 2016, the Department reviewed the documents that were submitted by the Appellant's representative which included the updated \$4,039.22 cash surrender value for the life insurance policy ("LIP") and a statement that the policy was in the process of being surrendered. The Appellant's representative reported the LIP funds were going to be used to pay for the Appellant's cremation and that arrangements had been made with a funeral home in [REDACTED]. The Department mailed another W-1348LTC requesting an explanation of all transactions of \$5,000.00 or more; for the Appellant's representative to continue providing updated Wells Fargo and People's bank statements; Wells Fargo IRA account from [REDACTED]/2014 to the present; and verification of where the IRA funds totaling \$5,625.75 were disbursed to in 2013. Also requested was proof of how the MetLife policy funds were disbursed, how the proceeds were spent down and a copy of the itemized funeral contract. The Appellant was again informed that the

asset limit was \$1,600.00. The requested information was due by [REDACTED] 2016 (Exhibit 6: W-1348LTC #2, [REDACTED]/16 and Exhibit 3: Case Narrative).

7. On [REDACTED] 2016, the Department reviewed the documents that were submitted by the Appellant's representative. The representative submitted proof that the LIP was cashed out for \$4,214.22. The Department sent a W-1348LTC requesting verification of all transactions of \$5,000.00 or more for all accounts, to continue providing updated Wells Fargo and Peoples Bank statements, verification of where the \$5,625.75 IRA funds were disbursed to in 2013, where the LIP funds were deposited and how the funds were spent down. The Department also requested the itemized copy of the funeral contract and informed the Appellant that the asset limit was \$1,600.00. The requested information was due by [REDACTED], 2016 (Exhibit 7: W-1348LTC #3, [REDACTED]/16 and Exhibit 3).
8. On [REDACTED], 2016, the Department reviewed the verifications provided by the Appellant's representative. The Department sent a W-1347LTC to the Appellant's representative requesting verifications of all transactions for \$5,000.00 or more; to continue providing updated Wells Fargo and People's bank statements; verification of where the LIP funds were deposited and how they were spent down; and the itemized copy of the funeral contract. The requested information was due by [REDACTED] 2016 (Exhibit 8: W1348LTC #4, 10/17/16 and Exhibit 3).
9. On [REDACTED] 2016, the Department reviewed the verifications provided by the Appellant's representative that included a burial contract with [REDACTED] Funeral Home dated [REDACTED], 2016 that was valued at \$3,500.00. The Department mailed the representative a W-1348LTC requesting verifications of all transactions for \$5,000.00 or more; to continue providing updated Wells Fargo and Peoples bank statements; Wells Fargo IRA statements for period [REDACTED]/14 to the present; where the IRA funds totaling \$5,625.75 were disbursed to in 2013; where the LIP funds were deposited and how they were spent down. The requested information was due by [REDACTED] 2016 (Exhibit 9: W-1348LTC #5, [REDACTED]/16 and Exhibit 3).
10. On [REDACTED], 2016, the Department reviewed the verifications provided by the Appellant's representative that included proof that the MetLife LIP funds were deposited into the Appellant's account and then transferred to the representative's account to purchase a cremation contract. The representative reported that a balance still remained in the Appellant's IRA account; and that the Appellant had an account with the [REDACTED] Home. The Department sent the representative a W-1348LTC requesting the updated Wells Fargo and Peoples Bank accounts from [REDACTED], 2016 to the present; Wells Fargo IRA from [REDACTED]/2014 to the present; and the look-back for the [REDACTED] Home account. The requested information was due by [REDACTED], 2016 (Exhibit 3).
11. On [REDACTED], 2016, the Department received the following verifications from the Appellant's representative: the current Wells Fargo IRA statement with a

balance of \$1,500.00 as of [REDACTED] 2016 and verification of the [REDACTED] 2013 distribution from the Wells Fargo IRA. The Department mailed a W-1348LTC to the representative requesting the updated Wells Fargo checking account from [REDACTED], 2016 to the present; Peoples Bank checking and savings account from [REDACTED], 2016 to the present; the Wells Fargo IRA statement from July 2014 to the present; the look-back for the Lutheran Home account; and an explanation of what the \$5,000.00 withdrawal from the IRA on [REDACTED]/13 was used for. The Department advised the representative that the Appellant was likely over the asset limit (Exhibit 3).

12. On [REDACTED] 2016, the Department reviewed the verifications provided by the Appellant's representative which included the updated Peoples Bank checking and savings statements and proof that the \$5,000.00 withdrawal from the IRA account was used to pay a credit card bill. The Department mailed the representative a W-1348LTC requesting proof of all transactions for \$5,000.00 or more; the Wells Fargo checking account from [REDACTED] 2016 to the present; the Wells Fargo IRA account from [REDACTED] 2014 to the present; and the Lutheran Home account from its creation to the present. The Department also advised the representative that the Appellant could be over the \$1,600.00 asset limit. The requested information was due by [REDACTED] 2016 (Exhibit 10: W-1348LTC # 6, [REDACTED]/16 and Exhibit 3).
13. On [REDACTED] 2016, the Department reviewed the verifications provided by the Appellant's representative which included the Wells Fargo checking account through [REDACTED], 2016 for account # [REDACTED]. The Department mailed a W-1348LTC requesting proof of all transactions for \$5,000.00 or more; Wells Fargo checking account # [REDACTED] for [REDACTED], 2016 to the present; Wells Fargo IRA account # [REDACTED] from [REDACTED] 2014 to the present; Lutheran Home account from its creation to the present; the source of the [REDACTED]/16 deposit for \$2,494.95 into the Wells Fargo account # [REDACTED]. The requested information was due by [REDACTED] 2016 (Exhibit 12: W-1348LTC, [REDACTED] 2016 and Exhibit 3).
14. On [REDACTED] 2016, the Department reviewed the verification provided by the Appellant's Representative which included a copy of the [REDACTED] 16 check for \$2,845.00 made out to the Lutheran Home. The Wells Fargo IRA account balance was reduced to \$1,500.00 on [REDACTED] 2016. The Department denied the Medicaid for Long Term Care application from [REDACTED] 2016 through [REDACTED] 2016 and granted effective [REDACTED], 2016 (Exhibit 15: Wells Fargo IRA account statement, Exhibit 22: Check made out to the Lutheran Home, [REDACTED]/16 and Exhibit 3).

15. The Appellant's assets included the following:

| ACCOUNT | SEPT 2016 | OCT 2016 | NOV 2016 | DEC 2016 |
|---|---------------------------|----------------------------|----------------------------|------------|
| Wells Fargo IRA # [REDACTED] | \$3,994.85 | \$3,994.85 | \$1,500.00 | \$1,500.00 |
| Wells Fargo checking # [REDACTED] | \$1397.46 (\$1,393.00) | \$4,218.68 (\$1,393.00) | \$2,913.58 (\$1,393.00) | \$0.00 |
| | \$4.46 | \$2,825.68 | \$1,520.58 | \$0.00 |
| Peoples Bank # [REDACTED] | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| MetLife Insurance | \$4,214.22 | \$0.00 | \$0.00 | \$0.00 |
| [REDACTED] Home | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| Total | \$8,213.53 | \$6,820.53 | \$3,020.58 | \$1,500.00 |

CONCLUSIONS OF LAW

1. Connecticut General Statutes §17b-2 provides in part that the Commissioner is authorized to administer the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Uniform Policy Manual § 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 unit.
3. 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.
4. The Department correctly determined that the Appellant's MetLife cash surrender value and the Wells Fargo checking and IRA accounts were available to the Appellant.
5. 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.
6. UPM § 4026.05 pertains to the calculation method for counted assets and states the amount of assets counted in determining the assistance unit's eligibility is calculated in the following manner:

- A. The Department determines the amount of the assistance unit's available non-excluded assets by subtracting the value of the following assets owned by the assistance unit:
 1. those assets considered to be inaccessible to the assistance unit at the time of determining eligibility; and
 2. assets which are excluded from consideration.
 - B. The Department adjusts the amount of the assistance unit's available non-excluded assets by:
 1. subtracting a Community Spouse Disregard (CSD), when appropriate, for those individuals applying for assistance under the MAABD program (Cross Reference: 4022.05); and
 2. adding any amount of assets deemed to be available to the assistance unit (Cross Reference: 4025); and
 3. subtracting a Long-Term Care Insurance Disregard (LTCID), when appropriate, for those individuals applying for or receiving assistance under the MAABD program (Cross Reference: 4022.10).
 - C. The amount remaining after the above adjustments is counted.
7. UPM § 4005.10 (A) provides that in the Medicaid program, the asset limit for one person is \$1,600.00.
 8. UPM § 4030.05 (B) provides that the 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 the assistance unit deposits into the account that month from the highest balance in the account for that month.
 9. The Department correctly counted the Appellant's assets and determined that her assets exceeded the \$1,600.00 asset limit for the months of [REDACTED] 2016 through [REDACTED] 2016.
 10. On [REDACTED], 2016, the Department correctly granted the Appellant's [REDACTED] 2016, application for Medicaid for Long Term Care effective [REDACTED] 2016, as the assets were reduced to the allowable limit.

DISCUSSION

The Appellant's representative requested that Medicaid Long Term Care coverage be granted back to [REDACTED] 2016. She filed two previous applications on [REDACTED] 27, 2016 and [REDACTED] 18, 2016. Those applications were denied on [REDACTED] 14, 2016 and [REDACTED] 8, 2016 respectively for failure to provide information. She did not request a hearing for those denials so those issues were not addressed in this hearing decision.

The Appellant's representative testified that she was not informed of the importance of supplying the information quickly and did not receive enough guidance. She consistently supplied the Department with at least one item that was requested in a timely manner and did not request assistance from the Department. All of the W-1348LTC's issued indicated the asset limit was \$1,600.00 and that there is no Medicaid Long Term Care eligibility for any month in which counted assets exceed that limit. Three of the W-1348LTC's that were issued informed her that the Appellant appeared to be over that asset limit. The W-1348LTC that the Department issued on [REDACTED] 2016 suggested several ways how the Appellant's representative could reduce the cash surrender value of the MetLife insurance policy.

Based on the information presented, I find that the Department acted correctly when processing the Appellant's application. The Appellant's assets exceeded the \$1,600.00 asset limit in [REDACTED], [REDACTED] and [REDACTED] 2016. The Department correctly denied assistance for those months and granted Medicaid Long Term Care assistance effective [REDACTED] 2016.

DECISION

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


Carla Hardy
Hearing Officer

Pc: Peter Bucknall, Operations Manager, Waterbury RO
Karen Main, Operations Manager, Waterbury RO
Jason Bezzini, Eligibility Services Worker, Waterbury RO

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 Legal Counsel, Regulations, and Administrative Hearings, 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 his 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.