

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 # 822690

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████, 2017, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA) denying her Long Term Care benefits for the months of ██████████ 2017, ██████████ 2017 and ██████████ 2017 because the value of her assets was more than the amount allowed for this program.

On ██████████ 2017, the Appellant requested an administrative hearing to contest the Department's decision to deny such benefits.

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

On ██████████, 2017 in accordance with sections 17b-60, 17-61 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:

██████████, daughter and Appellant for ██████████ (mother)
Lindsey Meyer, Fair Hearing Liaison, Bridgeport Regional Office
Michael Briggs, Fair Hearing Liaison, Bridgeport Regional Office
Barbara Bruner, observer, Danbury Regional Office
Almelinda McLeod, Fair Hearing Officer

The hearing record was held open for the submission of additional evidence. On [REDACTED] 2017 the hearing record was closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Appellant's benefits under the Medicaid for Long Term Care Program for the months of [REDACTED] and [REDACTED] 2017 was correct.

FINDINGS OF FACT

1. On [REDACTED] 2016, the Appellant was admitted to Candlewood Long Term skilled nursing facility for rehabilitation. Family members decided she would stay after the passing of the Appellant's spouse on [REDACTED] 2016. (Appellant's testimony)
2. Candlewood was bought out by New Milford Rehabilitation. The Appellant is resident at New Milford Health and Rehabilitation. (Department testimony)
3. On [REDACTED] 2017, the Department received a W-1LTC application and screened an L01 application for long term care. (Exhibit 1, W1LTC application)
4. On [REDACTED], 2017, the Department issued a W-1348 Verification We Need form requesting proof of Power of Attorney or Conservatorship, Copy of spouse's death certificate, Proof of all assets, verification of all transactions of \$5000 or more (Debits or credits) in the Unions Savings bank accounts and all other bank accounts from [REDACTED] 2012, 2013 and 2014, verification of closed accounts, all funeral contracts, property deeds, listing agreement for sale of home property. (Exhibit 2, W-1348)
5. On [REDACTED] 2017, the Department issued a W-1348 requesting Proof of Union Savings Bank checking # [REDACTED], Bank statements for [REDACTED] 2015 to the present and [REDACTED] 2012, 2013 and 2014. All accounts in the spouses' name, from [REDACTED] 2015 and [REDACTED] 2012, 2013 and 2014. Verification of all closed accounts, for the same time period. (Exhibit 3, W-1348)
6. On [REDACTED] 2017, the Department issued a W-1348 requesting verification of specific transactions within the following assets; Union checking [REDACTED], Union CD [REDACTED] and Union CD [REDACTED], from [REDACTED] 2015 to the present, and [REDACTED] 2012, 2013 and 2014. Union checking [REDACTED] was over assets, needed verification to show this asset was under the asset limit. (Exhibit 4, W-1348)

7. The asset limit for the Long Term Care Medicaid Assistance is \$1600.00. (Department's testimony)
8. On [REDACTED] [REDACTED] 2017, the Department issued a W-1348 requesting verifications of previously requested verifications plus a new Union account # [REDACTED]. Union checking account [REDACTED] was over assets, requested bank statement from [REDACTED] 2017 to the present to show asset was within the asset limit. (Exhibit 5, W-1348)
9. On [REDACTED], 2017, the Department issued a W-1348 requesting bank statements and transactions for all accounts. Union checking [REDACTED] was over the asset limit; requested verification that the account was within the asset limit. (Exhibit 6. W-1348)
10. All the W-1348's indicated that there is no eligibility for title 19 Long Term Care benefits in any month in which counted assets exceed \$1600.00. (Exhibits 2,3,4,5, and 6- W-1348's)
11. On [REDACTED], 2017, the Department received verification that Union checking account [REDACTED] was spent down on [REDACTED] 2017 with a payment to the skilled nursing facility ("SNF") (Exhibit 10- Case narrative and Exhibit 13, Copy of check made out to CVHRS)

12. The Union Savings Bank account # [REDACTED] balances per month were as follows: (Exhibits 13 and B- Union Savings bank statements)

[REDACTED] 2016	\$8,772.41
[REDACTED] 2016	\$6,545.52
[REDACTED] 2017	\$6,302.88
[REDACTED] 2017	\$5,050.88
[REDACTED] 2017	\$6380.88
[REDACTED] 2017	\$8041.39
Post payment \$7690 to CVHRS [REDACTED] 17	\$351.39

13. On [REDACTED], 2017, the Department granted L01 Long Term Care Medicaid effective [REDACTED] 2017. (Exhibit 10, Case narrative, and Department testimony)
14. On [REDACTED] 2017, the Department issued a Notice of Approval for Long Term Care Medicaid to the Appellant effective [REDACTED] 2017. (Exhibit 7 and 9, Notices of Approval)
15. Diversion of applied income was authorized to go towards the total unpaid bill from New Milford Health and Rehabilitation services totaling \$55,498.00 and the diversion will end approximately [REDACTED] 2020. (Exhibit 7, Notice of Approval for Long Term Care Medicaid, pg. 2 Applied Income)

16. The Appellant disagrees with the effective date of [REDACTED] 2017 because she wrote out checks in the month of [REDACTED] 2016 that would have left a balance under \$1600.00 asset limit, had all the checks cleared. (Appellant's testimony and exhibit B, Union Savings Bank statements from [REDACTED] 2016, [REDACTED] 2017, [REDACTED] 2017, [REDACTED] 2017, [REDACTED] 2017 and [REDACTED] 2017)

CONCLUSIONS OF LAW

1. Section 17b-2 (6) of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the Medicaid program pursuant to the Title XIX of the Social Security Act.
2. Connecticut General Statutes ("Conn. Gen. Stat.") § 17b-261 provides in part, any disposition of property made on behalf of an applicant or recipient or the spouse of an applicant or recipient by a guardian, conservator, person authorized to make such disposition pursuant to a power of attorney or other person so authorized by law shall be attributed to such applicant, recipient or spouse.
3. Conn. Gen. Stat. § 17b-261 (c) provides in part, 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.
4. Uniform Policy Manual ("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:
 - a. available to the unit; or
 - b. deemed available to the unit.
5. 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.
6. **The Department correctly determined that the Union Savings Bank accounts, Spouses accounts, CD accounts, property and all other assets reported on the application was an accessible asset available to the Appellant, who has the legal right and authority or power to**

obtain the asset or to have it applied for the Appellant's medical support.

7. 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.
8. UPM § 4005.10. (A) (2) (a) provides that in the MAABD program, the asset limit is \$1600 for a needs group of one person.
9. UPM § 4005.15 (A) (2) provides that at the time of application, the assistance unit is ineligible for assistance until the first day it reduces its equity in counted assets to within the particular program asset limit.
10. UPM § 4005.15(B) (2) (b) provides that for recipients, if the assistance unit does not reduce its excess assets 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 proper reduces its assets to an allowable level.
11. 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: 2540.94). 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.
12. **The Department correctly counted the Appellant's assets for the months of [REDACTED] 2016, [REDACTED] 2016, [REDACTED] 2017, [REDACTED] 2017 and [REDACTED] 2017.**

13. The Department correctly determined that the Appellant's total assets exceeded the Medicaid asset limit of \$1600 for the periods of [REDACTED] 2016, [REDACTED] 2016, [REDACTED] 2017, [REDACTED] 2017 and [REDACTED] 2017.
14. The Department correctly determined the Appellant's assets were spent down in [REDACTED] 2017 to the allowable asset limit of \$1600.00.
15. The Department correctly granted Long Term Care Medicaid effective [REDACTED] 2017 when the assets were reduced to the allowable asset limit of \$1600.00.

DISCUSSION


Based upon the evidence and testimony of this hearing, the Department's decision to grant LTC Medicaid effective [REDACTED] 2017 is upheld.

Documentary evidence provided by the Appellant and the Department did not support the Appellants argument that the sum of all checks written and sent off by the end of [REDACTED] 2016 would show that the Appellant was well under the \$1600.00 asset limit. The documentary evidence showed that some of the checks made out in [REDACTED] 2016 did not clear until after the following month. None of the bank statements provided of the Union Savings bank account # [REDACTED] showed a balance under \$1600.00 until [REDACTED] 2017.

The Appellant did not prove the assets were reduced to \$1600 or below for the months of [REDACTED] 2016, [REDACTED] 2017, [REDACTED] 2017 nor [REDACTED] 2017, therefore, the action taken by the Department was proper according to federal guidelines and departmental regulations.

DECISION

The Appellant's appeal is DENIED


Almelinda McLeod
Hearing Officer

CC: Carol Sue Shannon, SSOM Danbury Regional Office
Lindsey Meyer, Fair Hearing Liaison, Bridgeport Regional Office
Michael Briggs, Fair Hearing Liaison, Bridgeport Regional Office

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.

