

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# ██████████  
Hearing ID# 831000

NOTICE OF DECISION

PARTY

██████████  
C/O Att. ██████████  
██████████  
██████████

PROCEDURAL BACKGROUND

On ██████████ 2017, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") granting long term care medical assistance under the Medicaid program effective ██████████ 2017.

On ██████████ 2017, Attorney ██████████ ("Conservator") requested an administrative hearing to contest the Department's decision to deny certain months of benefits.

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

On ██████████ ██████████ 2017, the Appellant's Conservator requested to reschedule the administrative hearing.

On ██████████ ██████████, 2017, the OLCRAH issued another notice rescheduling the administrative hearing for ██████████ 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:

Attorney [REDACTED], Appellant's Conservator  
[REDACTED], Riverside Nursing Home, for the Appellant  
Saya Miyakoski, Department's Representative  
Maureen Harry, Fair Hearing Liaison, via telephone  
Swati Sehgal, Hearing Officer

The Appellant, [REDACTED], was not present at the hearing due to her passing on [REDACTED] 2017.

The Hearing record remained open for the submission of additional information. Additional information was received from the Department and the Appellant's Conservator, and the record closed on [REDACTED] 2017.

### **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] 2017.

### **FINDINGS OF FACT**

1. On [REDACTED] 2016, the Appellant became a resident at Riverside Health and Rehabilitation Center ("the facility") in [REDACTED], CT (Exhibit A: Facility's Admission Record)
2. The Appellant was diagnosed with Dementia. ( Exhibit A: Copy of Admission Record of the facility and testimony)
3. On [REDACTED] 2016, the facility filed a petition with Probate Court for appointment of Conservator for the Appellant. (Exhibit C: Copy of Petition)
4. On [REDACTED] 2107, the Probate Court appointed Attorney [REDACTED] [REDACTED] the Fiduciary of the Appellant and her estate. ( Exhibit F: Fiduciary Certificate from Probate Court)
5. On [REDACTED] 2017, the Probate Court appointed Attorney [REDACTED] [REDACTED] the Conservator of the Appellant. (Exhibit E: Degree of Conservatorship)

6. On [REDACTED] 2017, the Department received an application for Long Term Care assistance from the Appellant's Conservator. ( Exhibit 1: Case Narrative, Department's summary)
7. On [REDACTED] 2017, the Department mailed the Appellant's Conservator a Verification We Need ("W-1348LTC") form requesting verifications that were needed to establish eligibility. Among the items requested were bank statements from [REDACTED]/2015 to the present and anniversary statements for [REDACTED]/12, [REDACTED]/13, and [REDACTED]/14. (Exhibit 1).
8. The Appellant received \$1,102.00 per month in Social Security benefits and \$125.26 in Pension from TA Life Insurance Company (Exhibit 6: bank statement from Farmington Bank account [REDACTED], Exhibit J: Bank statements from Farmington Bank account [REDACTED]).
9. The Asset limit for Long Term Care Medical Assistance is \$1600.00 (Hearing Record)
10. On [REDACTED] 2017, the Department reviewed the documents submitted by the Appellant's Conservator which included the bank statement from Farmington bank, and copy of account history for same account for period of [REDACTED]/17 to [REDACTED]/17 with no questionable transections. (Exhibit 1 and Department's summary).
11. On [REDACTED] 2017, the Department determined the Conservator correctly spent down the Appellant's funds in [REDACTED] 2017, and the Appellant became asset eligible effective [REDACTED] 2017. In the month of [REDACTED] 2017 the Appellant's Farmington Bank account [REDACTED] had a balance of \$1382.51 (Exhibit 7: Notice content dated [REDACTED]/17, Exhibit 6: Farmington Bank statement and Department's testimony)
12. On [REDACTED] 2017, the Department granted Medicaid for long term care assistance effective [REDACTED] 2017, the first month the Applicant was under the \$1,600.00 asset limit. The Department denied the months of [REDACTED] 2016 through [REDACTED] 2017 for exceeding the asset limit of \$1600.00. (Hearing Summary, Exhibit 7)
13. In the Month of [REDACTED] 2016 the Appellant's Farmington Bank account [REDACTED] had balance of \$4109.59. (Exhibit 6)
14. In the month of [REDACTED] 2016 the Appellant's Farmington Bank account [REDACTED] had balance of \$4967.85. (Exhibit 6)
15. In the month of [REDACTED] 2016 the Appellant's Farmington Bank account [REDACTED] had balance of \$6195.11. (Exhibit 6)

16. In the month of [REDACTED] 2017 the Appellant's Farmington Bank account [REDACTED] had balance of \$7422.37. (Exhibit 6)

### **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 ("UPM") Section 4030 provides that the Department evaluates all types of assets available to the assistance unit when determining the unit's eligibility for benefits.
3. Section 17b-261(c) of the Connecticut General Statutes 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. UPM § 4005.05 (A) 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.
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 Appellant's Farmington Bank account was available to the Appellant.
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 § 4005.15 (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.
9. UPM § 4015.05 (B) provides that the burden is on the assistance to demonstrate that an asset is inaccessible. For all programs except Food Stamps, in order for an asset to be considered inaccessible, the assistance unit must cooperate with the Department as directed, in attempting to gain access to the asset.

10. The Department correctly determined that the Applicants assets were accessible.
11. UPM § 4005.10 (A) provides that in the Medicaid program, the asset limit for one person is \$1,600.00.
12. 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.
13. 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] 2017.
14. The Department correctly granted the Appellant's application for Medicaid for Long Term Care effective [REDACTED] 2017, as the assets were reduced to the allowable limit.

### **DISCUSSION**

After reviewing the evidence and testimony presented, I find the Department correctly determined the effective date of the Appellant's Medicaid assistance.

The Appellant's Conservator testified the Appellant suffered from Dementia and wasn't able to provide any information at all. The Conservator further stated she was unaware of the Farmington Bank account, and once she became aware, she moved promptly and reduced the balance by making payments towards the Appellant's outstanding bills.

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 record reflects that the Applicant's assets were within the Medicaid limits effective [REDACTED] 2017, the month in which the funds in the bank account were properly reduced. Prior to [REDACTED] 2017, the funds were accessible to the Appellant and exceeded the Medicaid asset limit.

Based on the policy and regulations, the Department properly granted benefits beginning in the month of [REDACTED] 2017 when the Appellant became asset eligible. The Department properly denied the Appellant assistance for the month of [REDACTED] 2017 as well as the retroactive months of [REDACTED] and [REDACTED] 2016.

**DECISION**

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

*Swati Sehgal*

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Swati Sehgal  
Hearing Officer

Pc: Elizabeth Thomas, Operations Manager, Manchester RO  
Maureen Harry, Fair Hearing Liaison

## **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.