

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

[REDACTED]
Signature Confirmation

Client ID # [REDACTED]
Request # [REDACTED]

NOTICE OF DECISION

PARTY

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED], the Department of Social Services (the "Department") sent [REDACTED] (the "Appellant") a Notice of Action ("NOA") denying her application for Long Term Care Medicaid benefits for [REDACTED] 2017 through [REDACTED] 2017 and granting her Long Term Care benefits effective [REDACTED] 2017.

On [REDACTED], the Appellant requested an administrative hearing to contest the effective date of the Long Term Care Medicaid benefits as determined by the Department.

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

On [REDACTED] [REDACTED] [REDACTED], the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice rescheduling the administrative hearing for [REDACTED]

On [REDACTED], the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice rescheduling the administrative hearing for [REDACTED]

On [REDACTED], 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:

[REDACTED], Appellant's daughter, Authorized Representative ("AREP")
Ornela Bejleri, Department's Representative
Miklos Mencseli, Hearing Officer

The Appellant was not present.

STATEMENT OF THE ISSUE

The issue is the effective date of Long Term Care Medicaid benefits.

FINDINGS OF FACT

1. On [REDACTED], the Appellant was admitted to [REDACTED]. (Hearing Record)
2. On [REDACTED], the Appellant submitted an application to the Department For Long Term Care Medicaid benefits. (Summary)
3. The Appellant is the Insured/Payor /Owner of a [REDACTED] Whole Life Insurance policy ([REDACTED]). (Exhibit 4: [REDACTED] statement dated [REDACTED] 17)
4. The Appellant is the Insured/Policyholder of a [REDACTED] policy ([REDACTED]). Exhibit 5: [REDACTED] statement dated [REDACTED] 17)
5. On [REDACTED], the Department sent the Appellant AREP a W-1348LTC Verification We Need form requesting information needed to process the Appellant's application. The form states there is no eligibility for Title 19 in any month in which the total assets exceed \$1600.00. You must verify that your total assets are below \$1600.00 and how funds are spent to reduce assets below the allowable limit. The form request verification for the [REDACTED] and [REDACTED] policies. (Exhibits 2: W-1348LTC dated [REDACTED])
6. The Appellant's AREP provided a premium notice for the [REDACTED] policy and notice of payment due for the [REDACTED] policy. The notices do not contain the cash value amounts of the policies. (Exhibit 2: Insurances notices)
7. On [REDACTED], the Department sent the Appellant AREP a W-1348LTC Verification We Need form requesting information needed to process the Appellant's application. The form states there is no eligibility for Title 19 in any

month in which the total assets exceed \$1600.00. You must verify that your total assets are below \$1600.00 and how funds are spent to reduce assets below the allowable limit. The form requested verification of the cash value for the [REDACTED] and [REDACTED] policies as the statements provided did not list them. (Exhibits 3: W-1348LTC dated [REDACTED]-17, checklist #2)

8. On [REDACTED], the Department sent the Appellant AREP a W-1348LTC Verification We Need form requesting information needed to process the Appellant's application. The form states there is no eligibility for Title 19 in any month in which the total assets exceed \$1600.00. You must verify that your total assets are below \$1600.00 and how funds are spent to reduce assets below the allowable limit. The form requested verification of the cash value for the [REDACTED] and [REDACTED] policies as the statements provided did not list them. (Exhibits 3: W-1348LTC dated [REDACTED], checklist #3)
9. On [REDACTED], the Department received an email with an attachment for the [REDACTED] policy ([REDACTED]). The policy Face Value is \$20,073.41 with a Cash Surrender Value of \$14,857.75. (Exhibit 5: email with policy attachment dated [REDACTED])
10. On [REDACTED], the Department received an email with an attachment for the [REDACTED] policy ([REDACTED]). The policy Face Value is \$4,000.00 with a Cash Surrender Value of \$1,120.21. (Exhibit 5: email with policy attachment dated [REDACTED])
11. On [REDACTED], the Department sent the Appellant AREP a W-1348LTC Verification We Need form requesting information needed to process the Appellant's application. The form states the [REDACTED] and [REDACTED] policies need to be surrendered since the cash value of \$14,857.75 and \$1,120.21 puts the client over the asset limit of \$1600.00 when combined with her bank accounts. (Exhibit 7: W-1348LTC dated [REDACTED])
12. On [REDACTED], the Appellant's AREP responded to the Department's request. The [REDACTED] policy is being cashed in and proceeds used to pay for nursing home stay. [REDACTED] policy is being turned over to [REDACTED] Funeral Home. (Exhibit 8: email dated [REDACTED])
13. On [REDACTED], the Appellant's AREP provided the Department by email a copy of the Appellant's funeral contract dated 10-18-17. (Exhibit 8 & 9: email dated [REDACTED] and funeral contract)
14. On [REDACTED], the Appellant's AREP provided the Department by email a copy of a check from [REDACTED] for the cash surrender value of the policy. (Exhibit 10: email dated [REDACTED] with copy of check for \$1,346.00)

15. On [REDACTED], the Department granted the Appellant Medicaid for long term care assistance effective for October 1, 2017. The first month the Appellant was under the asset limit for the program. (Summary, Testimony) (Appellant's Exhibit A: signed affidavit)
16. The Appellant was private pay until her application date. The Appellant is seeking an effective date of Medicaid for [REDACTED]. (Hearing Record)

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.
2. 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: 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. UPM § 4005.05 (D) provides that an assistance unit is not eligible for benefits under a particular program if the units equity in counted assets exceeds the asset limit for the particular program.
5. The Department correctly determined that the [REDACTED] policy [REDACTED] and [REDACTED] policy [REDACTED] was an available asset and that the applicant had the legal right, authority or power to obtain the asset.
6. UPM § 4030.30 discusses the treatment of life insurance policies as assets.

UPM § 4030.30(A) provides that for all programs: 1. The owner of a life insurance policy is the insured unless otherwise noted on the policy, or if the insurance company confirms that someone else, and not the insured, can cash in the policy; and 2. Policies such as term insurance policies having no cash surrender value are excluded assets.

UPM § 4030.30(C) provides that for the AABD and MAABD programs: 1. If the total face value of all life insurance policies owned by the individual does not exceed \$1500.00, 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; and 2. Except as provided above, the cash surrender value of life insurance policies owned by the individual is counted toward the asset limit.

7. The Department correctly determined that the [REDACTED] insurance policy [REDACTED] and [REDACTED] policy [REDACTED] had a face value exceeding \$1500.00, and that the policy's cash surrender value was therefore counted toward the asset limit.
8. UPM § 4005.10(A)(2)(a) provides that the asset limit for Medicaid for a needs group of one is \$1600.00.
9. The Department correctly determined that the \$14,857.75 cash surrender value of the [REDACTED] policy [REDACTED] combined with the \$1,120.21 cash surrender value of the [REDACTED] policy [REDACTED] exceeded the Medicaid asset limit of \$1600.00.
10. Conn. Gen. Stat. §17b-2(8) Programs administered by the Department of Social Services provides that the Department of Social Services is designated as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.
11. The Department correctly determined that the Appellant did not meet the eligibility requirement of having assets under the limit in [REDACTED] 2017 through [REDACTED] 2017.
12. UPM § 4005.15 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.
13. UPM § 1560.10 (A) provides for begin dates of Medicaid Assistance. The beginning date of assistance for Medicaid may be one of the following: 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.
14. The Department correctly determined that the Appellant's Medicaid eligibility begin date is [REDACTED] 2017, the first day of the month in which assets were reduced below the asset limit for the program.

DISCUSSION

The Appellant's AREP through no fault of their own, it took time to receive the cash surrender funds for the insurance policy from [REDACTED] and [REDACTED]. However, the funds were available to the Appellant and are a counted asset. The Department cannot grant eligibility until the first day of the month in which the

applicant reduces its equity in counted assets to within the asset limit. The Department correctly determined the Appellant is eligible effective for [REDACTED] 2017.

DECISION

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



Miklos Mencseli
Hearing Officer

C: Peter Bucknall, Operations Manager, DSS R.O. #60 Waterbury

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.

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.