

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

██████████, 2018
Signature Confirmation

████████████████████
Request # 116705

NOTICE OF DECISION
PARTY

██████████
██████████

PROCEDURAL BACKGROUND

██████████, 2018, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") granting Long Term Care Medicaid benefits effective ██████████ 2018, and denying such benefits for the months of October 2017, November 2017 and December 2017.

██████████, 2018, ██████████, the Appellant's daughter and Power of Attorney ("POA"), requested an administrative hearing to contest the effective date of the Long Term Care Medicaid benefits as determined by the Department.

██████████, 2018, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice scheduling the administrative hearing for ██████████ 2018.

██████████, 2018, in accordance with sections 17b-60, 17-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, OLCRAH held a telephone administrative hearing. The following individuals were present at the hearing:

██████████, the Appellant's Representative
Jacquelyn Camposano, Department's Representative
Veronica King, Hearing Officer

The hearing record remained open for the submission of additional evidence. On ██████████ 2018, the record closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to grant Long Term Care benefits effective [REDACTED] 2018, was correct.

FINDINGS OF FACT

1. [REDACTED], 2017, the Department received an application for Medicaid for Long Term Care for the Appellant. The Appellant entered Westfield Manor facility on [REDACTED] 2017. (Exhibit 1: W-1 LTC Application form and Hearing Record)
2. [REDACTED], 2017, the Department reviewed the application and sent the POA a Verification We Need Form ("W1348LTC") requesting verification of income, assets and other verifications. The W1348 stated that the asset limit is \$1,600.00 (Exhibit 2: W1348LTC, [REDACTED]/17)
3. At the W-1LTC application, the Appellant reported a MetLife life insurance with a face value of \$5,000.00. At the time of application, the POA didn't know the cash value amount of the policy. (Exhibit 1 and Hearing Record)
4. [REDACTED], 2017, the Department sent the POA a second W1348LTC requesting the following missing information: Proof of gross pension amount for the Appellant and her spouse, copy of VA benefits, missing bank statements, IRA and UTC statements and life insurance policy verifying face value and cash surrender value. (Exhibit 3: W1348LTC, [REDACTED]/17)
5. [REDACTED], 2017, the Department sent the POA a third W1348LTC requesting the following missing information: Proof of gross pension amount for the Appellant and her spouse, copy of VA benefits, missing bank statements, IRA and UTC statements and life insurance policy verifying face value and cash surrender value. (Exhibit 4 : W1348LTC, [REDACTED]/17)
6. The POA worked conscientious with the banks and other companies to obtain access to her mother's accounts information and sent to the Department as soon as she received the required verifications. (Appellant's Exhibit A: [REDACTED]/18 fax and Hearing Record)
7. [REDACTED], 2017, Metropolitan Life Insurance sent the POA a notice verifying that the Appellant's Metlife life insurance had a face value of \$5000.00 and a total cash surrender value of \$11259.71. (Appellant's Exhibit A and Hearing Record)
8. [REDACTED], 2018, Metlife insurance sent \$11,114.95 check to the Appellant representing the cash surrender of her life insurance policy. (Exhibit 10: Life insurance policy and Hearing Record)

9. Once the POA received the \$11,114.95 cash surrender value of the Appellant's life insurance policy, she purchased a burial policies for the Appellant by the end of [REDACTED] 2018. (Appellant's Exhibit A and Hearing Record)
10. The Medicaid asset limit is \$1,600.00. (Hearing Record)
11. [REDACTED] 2018, the Department granted Medicaid for Long Term Care for the Appellant effective [REDACTED] 2018. (Exhibit 14: Notice of Action, [REDACTED] 18)

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") § 1505.15 (C)(1)(3) states in part that a conservator, guardian or other appointed fiduciary individual are qualified to request cash or medical assistance, be interviewed and, complete the application process on behalf who they represent.
3. 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.
4. UPM § 4005.10 provides that the Medicaid asset limit for a needs group of one is \$1,600.00 per month.
5. Section 17b-261(c) of the Connecticut General Statues 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.
6. UPM § 4000.01 defines available assets as cash or any item of value which is actually available to the individual or which the individual has the legal right, authority or power to obtain, or to have applied for, his or her general or medical support.
7. UPM § 4005.05(B) speaks to the asset limit and states in part:
 1. The Department counts the assistance unit's equity in an asset towards 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.

2. 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.
8. UPM § 4030.30 (A) (1) states that 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.
9. The Department correctly determined that the life insurance policy with Metropolitan Life Insurance Company is owned by the Appellant.
10. UPM § 4030.30 (C) (1) states that if the total face value of all life insurance policies owned by the individual does not exceed \$1,500, 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. (2) Except as provided above, the cash surrender value of life insurance policies owned by the individual is counted towards the asset limit.
11. UPM § 4005.05 (D) (1) provides that the Department compares the assistance unit's equity in counted assets with the program asset limit when determining whether the unit is eligible for benefits.
12. The Department correctly determined that the total amounts of the Appellant's life insurance cash surrender value were counted towards the asset limit.
13. 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.
14. The Department correctly determined that the Appellant was ineligible for Medicaid for Long Term Care for the months of [REDACTED] 2017, [REDACTED] 2017 and [REDACTED] r 2017 because the Appellant's assets exceeded the allowable asset limit of \$1600.
15. The Department correctly determined that the Applicant's assets were reduced to below \$1600 in [REDACTED] 2018.
16. The Department correctly granted Medicaid for Long Term Care effective [REDACTED], 2018.

DISCUSSION

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 Appellant's assets were within the Medicaid limits effective [REDACTED] 2018, the month in which the Appellant's life insurance cash value was surrendered and spenddown. In accordance with regulations, prior [REDACTED] 2018, the funds were accessible to the Applicant and exceeded the Medicaid asset limit.

The POA provided testimony and evidence that she worked diligent on her mother's application and submitted to the Department all requested verifications as best as she could. The fact that she live out of the State and that the financial companies required some time to provide her with the needed paperwork, it added some more time to the process. The POA also argued that there was some miscommunication between her and the Department and she was not aware of how to spenddown that the cash surrender value of the Appellant's life insurance at the beginning of the application process. The evidence does indicate that good effort was made in obtaining the necessary verifications to complete the Appellant's application. However, the assets (life insurance) were owned by the Appellant and accessible to the Appellant during that time, therefore must be counted as accessible assets by the Department.

Based on policy and regulations, the Department properly granted benefits beginning in the month of January 2018 when she became asset eligible. The Department properly denied the Applicant assistance for the months of [REDACTED] 2017, [REDACTED] 2017 and [REDACTED] 2017.

DECISION

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

Veronica King
Hearing Officer

Cc: Brian Sexton, DSS Operation Manager, DO#50 New Middletown.
Marcia Riveglia, Appellant's POA

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.