

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

Client ID # ██████████  
Request # 118989

NOTICE OF DECISION

PARTY

██████████  
██  
██████████  
██████████

PROCEDURAL BACKGROUND

On ██████████, 2018, the Department of Social Services (the “Department”) granted ██████████, (the “Appellant”) ██████████, 2017, application for Long Term Care Medicaid benefits effective ██████████ 2017.

On ██████████ 2018, the Appellant’s representative requested an administrative hearing to contest the Department’s decision to deny certain months of benefits and requested that the Department grant benefits back to ██████████ 2017.

On ██████████, 2018, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████, 2018.

On ██████████, 2018, 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:

██, Appellant’s daughter  
██████████, Witness  
Kimberly Divirgilio, Department’s Representative  
Scott Zuckerman, Hearing Officer

The hearing record was held open for the submission of additional evidence. On [REDACTED], 2018, the hearing record closed.

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether the Department correctly granted the Appellant's Long Term Care Medicaid benefits effective [REDACTED] 2017.

### **FINDINGS OF FACT**

1. On [REDACTED], 1939, the Appellant was issued Life insurance policy # [REDACTED] with Prudential Life with a face amount of \$800.00. The Appellant is the owner and insured of the policy. (Ex. 13: Letter from Prudential and Appellant's exhibit B: Prudential Declaration page, [REDACTED], 1939)
2. On [REDACTED] 2017, the Appellant was admitted to the [REDACTED] ("the facility"). (Exhibit 1: W-1LTC, Long term care/Waiver Application, [REDACTED]/17)
3. On [REDACTED] 2017, the Appellant applied for Long-Term Care Medicaid Assistance. (Hearing Summary, Ex. 1: W-1LTC Long-term Care/Waiver Application, [REDACTED]/17)
4. The Appellant is widowed. (Ex. 1)
5. The asset limit for the Medicaid program is \$1600.00. (Hearing Record)
6. On [REDACTED], 2017, the Department sent the Appellant's representative a W-1348LTC, We Need Verification From You form, requesting items needed to establish eligibility. Among the items requested was to provide verification of a funeral contract from [REDACTED] Funeral home and that the Prudential Life Insurance Policy # [REDACTED] was assigned to the Funeral Home. The W-1348 requested that the Appellant reduce her countable assets to \$1600.00 or less and provide verification. (Exhibit 2: W-1348LTC [REDACTED]/17, and Ex. 11: Case narrative dated [REDACTED]/17)
7. On [REDACTED], 2017, the Department sent the Appellant's representative a W-1348LTC, requesting items needed to establish eligibility. Among the items requested was to provide the funeral contract from [REDACTED] Funeral Home and verification that the Prudential Life Insurance Policy was assigned to the funeral home, indicating ownership with the Appellant and beneficiary to the funeral home. The W-1348LTC requested that the Appellant reduce her countable assets to \$1600.00 or less and provide verification. (Ex. 3: W-1348LTC and Ex.11: Case narrative dated [REDACTED]/18)
8. On [REDACTED] 2017, the Department sent the Appellant's representative a W-1348LTC, requesting items needed to establish eligibility. Among the items

requested was to provide proof of how the cash value of the Prudential life insurance policy [REDACTED] was spent down to the asset limit. The W-1348LTC requested the Appellant provide verification that she reduced her countable assets to \$1600.00 or less. (Exhibit 4: W-1348LTC, [REDACTED]/17 and Ex. 11: Case narrative [REDACTED]/17)

9. On [REDACTED] 2017, the Prudential Life policy has a cash value of \$13,534.99. (Exhibit 6: Letter from Prudential, [REDACTED])
10. On [REDACTED] 2017, the Appellant's Prudential Insurance policy [REDACTED] was surrendered with a cash value of \$13,534.99. ( Ex. 7: Check Statement, [REDACTED] 17)
11. On [REDACTED] 2017, the proceeds of \$13,534.00 from the surrender of the Prudential Policy were deposited into the Appellant's People's United Bank account [REDACTED]. (Exhibit 7: Transaction Receipt, [REDACTED]/17, Exhibit 9: People's United bank Statement [REDACTED] 2017 through [REDACTED] 2017)
12. On [REDACTED] [REDACTED], 2017, the Appellant paid [REDACTED] [REDACTED] Funeral Home \$8,000.00 for a funeral contract from the proceeds of the life insurance policy. (Exhibit 10: Check to [REDACTED] funeral home dated [REDACTED]/17 and Exhibit 8: Transactions for Account # [REDACTED] [REDACTED]/17 to [REDACTED]/17)
13. On [REDACTED] 2017, the Appellant paid the [REDACTED] \$5,584.00 from the proceeds of the Appellant's Prudential Insurance policy. (Ex. 8)
14. On [REDACTED] 2017, the ending balance in the Appellant's checking account was \$361.94. (Ex. 8)
15. The Appellant's cash surrender value balance of the Prudential Life insurance policy # 4246 assets for the months of [REDACTED] 2017 through [REDACTED] 2017 were as follows:

Month	Prudential Life # [REDACTED]
[REDACTED] 2017	\$13,534.99
[REDACTED] 2017	\$13,534.99
[REDACTED] 2017	\$13,534.99
[REDACTED] 2017	\$0.00

(Exhibit 6)

16. In [REDACTED], the Appellant reduced her assets to below \$1600.00. (Hearing Record)

17. On [REDACTED] 2018, the Department sent the Appellant a Notice of Denial denying Long Term Care Medicaid for the months of [REDACTED] 2017 through [REDACTED] 2017. The reason stated for the denial was, "The value of your assets is more than the amount we allow you to have". (Exhibit 13: Notice of Denial, [REDACTED]/18)
18. On [REDACTED] 2018, the Department sent the Appellant a Notice of Approval, granting Long Term Care Medicaid benefits effective [REDACTED] 2017. (Ex. 12: Notice of Approval, [REDACTED] 18)

### **CONCLUSIONS OF LAW**

1. Section 17b-260 of the Connecticut General Statutes provides for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Uniform Policy Manual ("UPM") § 4030.30 discusses the treatment of life insurance policies as assets.
3. 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.
4. 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.
5. UPM § 4005.10(A)(2)(a) provides that the asset limit for Medicaid for a needs group of one is \$1600.00.
6. 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

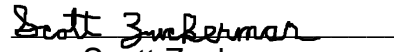
- C. The actual date in a spenddown period when all non-procedural eligibility requirements are met. For the determination of income eligibility in spend-down, refer to Income Eligibility Section 5520; or
  - D. The first of the calendar month following the month in which an individual is determined 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.
7. 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.
  8. 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.
  9. 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.
  10. The Department incorrectly determined that the Prudential Life Insurance policy # [REDACTED] cash surrender value should be counted toward the asset limit.  
  
The Prudential Life face value of \$800.00 does not exceed the face value threshold of \$1500.00, therefore excluding the cash surrender value of the policy.
  11. The Department incorrectly determined that the Appellant did not meet the eligibility requirement of having assets under the limit in [REDACTED] 2017 through [REDACTED] 2017. The Prudential Life insurance policy cash surrender value was excluded for the months of [REDACTED] through [REDACTED].
  12. The Department incorrectly determined that the Appellant's Medicaid eligibility begin date is [REDACTED] 2017, the first day of the month in which the proceeds from the life insurance policy were reduced.

**DECISION**

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

**ORDER**

1. The Department will consider the cash surrender value of the Appellant's Prudential Life Policy # [REDACTED] excluded and provided all other eligibility factors are met, grant Long Term Care Medicaid effective [REDACTED] 2017.
2. Compliance with this order is due by [REDACTED] 2018.

  
Scott Zuckerman  
Hearing Officer

CC: Peter Bucknall, Operations Manager, DSS, Waterbury Regional Office  
Karen Main, Operations Manager, DSS, Waterbury Regional Office  
Kimberly Divirgilio, DSS, Waterbury 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 Administrative Hearings and Appeals, 55 Farmington Avenue, Hartford, CT 06105-3725.

### **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.

