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

Case I # [redacted]
Client ID # [redacted]
Request # 119298

NOTICE OF DECISION

PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted], the Department of Social Services (the "Department") sent [redacted] (the "Applicant"), and her Conservator [redacted] ("the Appellant") a Notice of Action ("NOA") granting Medicaid benefits as of [redacted].

On [redacted], the Appellant requested an administrative hearing to contest the effective date of Medicaid benefits.

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

On [redacted], 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 participated in the hearing:

[redacted], Appellant, Applicant's Conservator of Estate

[redacted]
Adam Silverman, Fair Hearing Liaison for the Department, Via Telephone
Mark Blake, Department's Representative
Swati Sehgal, Hearing Officer

The Applicant, [redacted], was not present at the hearing due to her institutionalization at a long term care facility.

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STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to grant Medicaid effective [redacted] and to grant diversion for the period of [redacted] through [redacted] was correct.

FINDINGS OF FACT

1. On [redacted], the Department received a W-LTC, Long Term Care application for the Applicant. (Exhibit 4: W-LTC Application)

2. On [redacted], the Department mailed a W-1348 LTC, to the Applicant's representatives, requesting Applicant's updated bank statements for Connect Credit Union account from [redacted] to present, updated bank statements for TD Bank account from [redacted] to present and updated PNA account statements from [redacted], to present date. Due date to send this information was [redacted]. (Exhibit 2: W-1348LTC, [redacted])

3. On [redacted], The Department received an Email from the Applicant's Representative. (Department's Summary)

4. On [redacted], the Department mailed a second W-1348 LTC requesting updated bank statements from Connect Credit Union from [redacted] to present date, updated bank statements for TD Bank account from [redacted], [redacted] to [redacted] and [redacted] to present date, and updated PNA account statements from [redacted] to present date. Due date to send this information was [redacted]. (Exhibit 2: W-1348 LTC, [redacted])

5. On [redacted], the Department received all of the missing information. The Applicant's assets were within the allowable asset limit of $1600.00 in [redacted]. (Department's summary, Exhibit 5: Copy of Connect Credit Union bank account statement, Exhibit 6: Copy of TD Bank statements, Exhibit 7: Statement from West Hartford Health and Rehab regarding the Applicant's PNA balance)

6. On [redacted], the Department granted eligibility under Medicaid program with an effective date of [redacted]. (Department's Summary, Exhibit 9: Notice of Approval for LONG Term Care Medicaid)

7. On [redacted], the Department also granted six months diversion from [redacted] through [redacted]. (Department's Summary and Exhibit 9)

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") 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 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.

4. UPM § 3525.05(B)(1) provides for penalties for noncompliance with the application process; An application is denied when an applicant refuses to cooperate with the Department. It must be clearly shown that the applicant failed to take the necessary steps to complete the application process without good cause before the application is denied for this reason.

5. 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.

7. UPM § 4005.10 provides that the Medicaid asset limit for a needs group of one is $1,600.00 per month.

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. The Department correctly determined that the Applicant's assets were reduced to the allowable asset limit in [redacted].

10. The Department correctly determined that the Applicant was eligible for benefits in the month of [redacted].

11. The Department correctly granted the Applicant's application for Medicaid benefits effective [redacted].

12. UPM § 5035.20 provides that for residents of long term care facilities and those individuals receiving community-based services (CBS) when the individual does not have a spouse living in the community, total gross income is adjusted by certain deductions to calculate the amount of income which is to be applied to the monthly cost of care.

13. UPM § 5035.20 B (6) provides that monthly deductions are allowed from the income of assistance units in LTCF's for expenses for services provided by a licensed medical provider in the six month period immediately preceding the first month of eligibility providing the following conditions are met:
    a. the expenses were not for LTCF services, services provided by a medical institution equivalent to those provided in a long term care facility, or home and community-based services, when any of these services were incurred during a penalty period resulting from an improper transfer of assets; and
    b. the recipient is currently liable for the expenses; and
    c. the services are not covered by Medicaid in a prior period of eligibility.

14. The Department correctly granted the Applicant a diversion of applied income for six months, from [redacted] through [redacted].

DISCUSSION

After reviewing the evidence and testimony presented, I find the Department correctly granted the Applicant's Medicaid assistance as of [redacted] and granted diversion of applied income for months of [redacted].

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 reduced to within the Medicaid limits in [redacted]. Therefore the Department correctly granted Medicaid as of [redacted].

The Appellant was concerned about an application which was submitted to the Department in [redacted] and was denied in [redacted]. The Appellant was explained that application was denied in [redacted] due to not receipt of required information.

DECISION

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

Swati Sehgal
Hearing Officer

cc: Musa Mohamud, Operations Managers, DSS RO #10, Hartford
Judy Williams, Operations Managers, DSS RO #10, Hartford
Jessica Carroll, Operations Managers, DSS RO #10, Hartford
Jay Bartolomei, Fair Hearing Liaison Supervisor, DSS RO #10, Hartford
Adam Silverman, Fair Hearing Liaisons

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.