

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 #126364

NOTICE OF DECISION

PARTY

██████████

PROCEDURAL BACKGROUND

On ██████████ 2018, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") denying his application for Medicaid benefits for ██████████ 2018, April ██████████ and granting his benefits effective for ██████████, 2018.

On ██████████, 2018, the Appellant requested an administrative hearing to contest the effective date of his Medicaid benefits as determined by the Department.

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

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

On ██████████, 2018, 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:

██████████, Appellant
██████████, Appellant's Representative, Daughter,
Jenna Phillips, Department's Representative

Miklos Mencseli, Hearing Officer

STATEMENT OF THE ISSUE

The issue is the effective date of Medicaid benefits.

FINDINGS OF FACT

1. On [REDACTED], 2018, the Department received the Appellant's application for Medicaid for long term care assistance. The Appellant's daughter signed as authorized representative. (Summary, Exhibit B: W-1LTC application, Exhibit E: Department's Case Notes printout)
2. On the W-1LTC application the Appellant listed one asset; Webster Bank savings account #x[REDACTED] with a balance of \$5,000.00. (Exhibit B)
3. On [REDACTED], 2018, the Department sent the Appellant's daughter a W-1348LTC Verification WE Need form requesting information needed to process the Appellant's application. The Department requested copy of divorce decree, copy of Medicare card and bank statements for the Webster Bank account. The information was due by [REDACTED], 2018. (Summary, Exhibit C1: W-1348 dated [REDACTED]18, Exhibit E)
4. The Department sent subsequent W-1348LTC forms as the Appellant provided requested verifications:
 - W-1348LTC dated [REDACTED]-18 (Exhibit C2)
 - W-1348LTC dated [REDACTED]-18 (Exhibit C3)
5. On [REDACTED], 2018, the Department received the Appellant's Webster Bank savings statement with a balance of \$7,331.09 as of [REDACTED], 2018. (Summary)
6. The Appellant's account balance on [REDACTED], 2018 was \$6,582.03 and \$6,569.09 on [REDACTED] 2018. (Exhibit F: Webster Bank statement for savings account #x[REDACTED] for the period of [REDACTED], 2018 through [REDACTED], 2018).
7. The Webster Bank statement had withdrawals of \$1,010.00 and \$5,610.00 on [REDACTED], 2018. (Exhibit F)
8. On [REDACTED] 2018, the Department sent the Appellant's daughter a W-1348LTC Verification WE Need form requesting information needed to process the Appellant's application. The Department requested proof of how the \$6,620.00 withdrawn on [REDACTED], 2018 was spent. The information was due by June 9, 2018. (Summary, Exhibit C4: W-1348 dated [REDACTED]-18, Exhibit B)
9. On [REDACTED], 2018, the Department received verifications that the funds were used to pay the Appellant's bills. (Summary, Exhibit B)

10. On [REDACTED], 2018, the Department granted the Appellant Medicaid assistance effective for [REDACTED], 2018. The first month the Appellant was under the asset limit for the program. (Summary, Department's Testimony, Exhibit D: Department's Eligibility Determination Results printout)
11. The Webster Bank account is only in the Appellant's name. (Exhibit F)
12. The account is a pass book savings account. (Appellant & Daughter Testimony)
13. The Appellant has no other assets or accounts. The Appellant's monthly Social Security benefits are deposited into the Webster Bank account. (Exhibit B. Appellant & Daughter Testimony)
14. The Appellant's daughter provided Webster Bank with a signed letter requesting the bank to provide her access to the Appellant's account. (Exhibit H: letter dated [REDACTED]-18 to Webster Bank signed by Appellant and his daughter)
15. Webster Bank did not honor the letter and denied the Appellant's daughter access to the account. (Appellant & Daughter Testimony)
16. The Appellant due to an accident in [REDACTED] 2017 went from Hartford Hospital to Gaylord Hospital to the Hebrew Home to The Retreat Hartford assisted living facility. (Appellant & Daughter Testimony)
17. The Appellant due to his medical conditions was unable to physically go to the bank before the [REDACTED], 2018 to withdraw the funds. (Appellant & Daughter Testimony)
18. The Appellant is seeking a [REDACTED] 2018 date of eligibility. (Appellant & Daughter Testimony)
19. "The issuance of this decision is timely under Connecticut General Statutes 17b-61(a), which requires that a decision be issued within 90 days of the request for an administrative hearing. The Appellant requested an administrative hearing on [REDACTED], 2018. Therefore, this decision is due not later than [REDACTED], 2018."

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. Section 4000.01 of the Uniform Policy Manual (“UPM”) in part provides the following definitions:

Asset Limit

The asset limit is the maximum amount of equity in counted assets which an assistance unit may have and still be eligible for a particular program administered by the Department.

Available Asset

An available asset is 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.

Counted Asset

A counted asset is an asset which is not excluded and either available or deemed available to the assistance unit.

3. 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.
4. UPM 4030.05 provides for treatment of assets and specific types of assets.

A. Types of Bank Accounts

Bank accounts include the following. This list is not all inclusive.

1. Savings account;
 2. Checking account;
 3. Credit union account;
 4. Certificate of deposit;
 6. Patient account at long-term care facility;
 7. Children's school account;
 8. Trustee account;
 9. Custodial account.
5. The Department correctly determined the Webster Bank savings account #x [REDACTED] is a counted asset in determining eligibility for Medicaid benefits.
6. 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.
7. Conn. Gen. Stat. § 17b-261 (c) provides;
- “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. If the terms of a trust provide for the support of an applicant, the refusal of a trustee to make a distribution from the trust does not render the trust an unavailable asset. Notwithstanding the provisions of this subsection, the availability of funds in a trust or similar instrument funded in whole or in part by the applicant or the applicant's spouse shall be determined pursuant to the Omnibus Budget Reconciliation Act of 1993, 42 USC 1396p. The provisions of this subsection shall not apply to a special needs trust, as defined in 42 USC 1396p (d)(4)(A). For purposes of determining whether a beneficiary under a special needs trust, who has not received a disability determination from the Social Security Administration, is disabled, as defined in 42 USC 1382c(a)(3), the Commissioner of Social Services, or the commissioner's designee, shall independently make such determination. The commissioner shall not require such beneficiary to apply for Social Security disability benefits or obtain a disability determination from the Social Security Administration for purposes of determining whether the beneficiary is disabled."

8. The Department correctly determined that the Webster Bank savings account #x[REDACTED] was an available asset and that the applicant had the legal right, authority or power to obtain the asset.
9. UPM § 4005.10 provides that the Medicaid asset limit for a needs group of one is \$1,600.00 per month.
10. 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.
11. The Department correctly denied the benefit months of [REDACTED] 2018 and [REDACTED] 2018 as the Appellant's counted asset exceed the program limit of \$1,600.00.
12. 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.
13. The Department correctly determined that the Appellant's Medicaid eligibility begin date is [REDACTED] 2018, the first day of the month in which assets were reduced below the asset limit for the program.

DISCUSSION

The Webster Bank savings account 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], 2018.

DECISION

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



Miklos Mencseli
Hearing Officer

C: Musa Mohamud, Operations Manager, DSS R.O. #10 Hartford

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.