

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

████████████████████
Signature Confirmation

Client ID # ██████████
Request # 129632

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████, the Department of Social Services (the “Department”) sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) denying her application for reinstatement of her Connecticut Home Care Program for Elders (CHCPE) Medicaid Waiver benefits for the months of ██████████, inclusive, for the reasons, that she did not return all of the required proofs, that she did not meet program requirements and that the value of her assets was more than the amount she was allowed to have.

On ██████████, the Appellant requested an administrative hearing to contest the Department’s decision to deny her benefits.

On ██████████, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 018 at the Appellant’s home address. The ██████████ hearing could not be held on the scheduled date because the Appellant had been admitted to a skilled nursing facility.

On ██████████, OLCRAH issued a notice rescheduling the hearing for ██████████ at ██████████.

On ██████████, 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 at the nursing facility.

The following individuals were present at the hearing:

The Appellant

██████████, Appellant's niece
Noel Lord, Department's representative
James Hinckley, Hearing Officer

STATEMENT OF THE ISSUE

1. The issue to be decided is whether the Department was correct when it denied the Appellant's application for reinstatement of her Medicaid Home Care Waiver benefits on ██████████.

FINDINGS OF FACT

1. In ██████████, the Appellant was residing at home and receiving Medicaid for Home Care Waiver services. (Hearing Record)
2. On ████████ ████████, the Department issued a NOA to the Appellant discontinuing her Medicaid benefits effective ██████████ because she failed to timely submit her renewal form, and because the renewal process was not completed. (Ex. 5: NOA dated ██████████, Hearing Record)
3. The Appellant acknowledges that she did not submit her renewal form timely in ██████████ and is not appealing the discontinuance of her Medicaid benefits effective ██████████. (Appellant's testimony)
4. The Appellant submitted a renewal form to the Department on ██████████ ████████ which the Department accepted as an application for reinstatement of the Appellant's benefits; upon receipt of the renewal, the Department reinstated the Appellant's Medicaid benefits pending completion of the renewal. (Mr. Lord's testimony)
5. On ████████ ████████, the Appellant submitted another renewal form to the Department, which was redundant because the renewal that she submitted on ██████████ was still pending and no new application was required. (Ex. 8: W-1ER renewal form, Mr. Lord's testimony, Hearing Record)
6. On ██████████ the Department sent the Appellant a W-1348 *Proofs We Need* form which requested proof of the Appellant's checking account balance and stated, "The verifications that you provided with your renewal show that you are over the \$1600 asset limit for the Medicaid program that you receive. Please spend down your assets, provide receipts of how you spent down the excess

assets as well as an updated [REDACTED] account # [REDACTED] statement showing that you are asset eligible. (Ex. 6: W-1348 *Proofs We Need* form)

7. On [REDACTED] 2018, the Department received a bank statement showing that the balance in the Appellant's [REDACTED] account exceeded \$4,000.00. (Ex. 12: Case Notes)
8. On September 16, 2018, the Department issued a NOA to the Appellant closing her Medicaid for the period from [REDACTED], inclusive, and for the period from [REDACTED] ongoing, for the reasons, that she did not return all of the required proofs, that she did not meet program requirements and that the value of her assets was more than the amount she was allowed to have. (Ex. 7: NOA dated [REDACTED])
9. On [REDACTED], the Department granted State-funded Home Care Waiver services (or "M03" or "CHCPE Cat 2" services) for the Appellant effective [REDACTED] (Ex. 12)
10. "State-funded", or "M03", or "CHCPE Cat 2" are names for a non-Medicaid State-funded waiver program that has a higher asset limit than the Medicaid program; after the Department closed the Appellant's Home Care Waiver Medicaid benefits effective [REDACTED] for the reason that her assets were over the limit, it granted her State-funded benefits effective [REDACTED] as a partial substitute for the lost Medicaid benefits, because the Appellant's assets were below the limit for the State-funded program. (Mr. Lord's testimony)
11. The Appellant has submitted four checking account statements from [REDACTED] to the Department in relation to her application, dated [REDACTED], [REDACTED], [REDACTED], [REDACTED]. (Exhibits 9-A through 9-D)
12. The Appellant's [REDACTED] statements reflect the following balances on the following dates:

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

(Ex. 9-A through 9-D)

13. The Bank statements provided by the Appellant showed that her account balances consistently exceeded \$1,600.00 for the period from [REDACTED], inclusive. (Ex. 9-A through 9-D, Fact #12)
14. The balance in the Appellant's checking account dropped below \$1,600.00 on [REDACTED], when a check was paid from the account in the amount of \$2,657.00. (Ex. 9-D)
15. The [REDACTED] check for \$2,657.00 was a check that the Appellant's niece made out to herself and then cashed in order to give the money to the Appellant so she could use it to pay certain bills that she pays in cash. (Ms. [REDACTED]'s testimony)
16. On [REDACTED], the [REDACTED] submitted to the Department by fax a packet of medical bills and receipts for the Appellant, ostensibly to demonstrate how the Appellant had spent down her funds. (Ex. 11: Faxed packet of bills and receipts from [REDACTED])
17. The packet of information submitted by [REDACTED] included several unpaid medical bills, an unpaid electric bill, and a \$122.07 grocery bill paid in cash on [REDACTED]; the packet also included a handwritten listing [REDACTED], including the listing of a check written on "[REDACTED]" for "\$2700.00" to "Herself". (Ex. 11)
18. Out of the \$2,657.00 in cash that was transferred to the Appellant from her checking account on [REDACTED], the Department only has proof that the cash-on-hand has been reduced by \$122.07, based on the [REDACTED] grocery bill showing that the Appellant paid a \$122.07 bill in cash on that date. (Hearing Record)
19. As of [REDACTED], the Appellant had a balance of \$1,044.79 in her checking account, plus \$2,534.93 ($\$2,657.00 - \$122.07 = \$2,534.93$) in cash-on-hand, for a total of \$3,579.72 in assets. (Ex. 9-D, Facts #12, #15, #17, #18)
20. 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's representative requested an administrative hearing on [REDACTED]. Therefore, this decision is due not later than [REDACTED]. However, the hearing, which was originally scheduled for [REDACTED], was rescheduled due to the Appellant's address change, which caused a 24-day delay. Because this 24-day delay resulted from the Appellant's request, this decision is due not later than [REDACTED]

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. Connecticut General Statutes § 17b-261 (c) defines an “available asset” for purposes of determining eligibility for the Medicaid program as “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.”

Uniform Policy Manual (“UPM”) § 4000.01 defines an “available asset” 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”.

3. UPM § 4005.05(A) provides that “For every program administered by the Department, there is a definite asset limit”.

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:

- a. available to the unit; or
- b. deemed available to the unit.”

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”.

UPM § 4005.05(C) provides that “The Department does not count the assistance unit’s equity in an asset toward the asset limit if the asset is either:

1. excluded by state or federal law; or
2. not available to the unit.”

UPM § 4005.05(D) provides that:

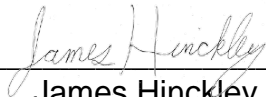
1. The Department compares the assistance unit’s equity in counted assets with the program asset limit when determining whether the unit is eligible for benefits.
2. An assistance unit is not eligible for benefits under a particular program if the unit’s equity in counted assets exceeds the asset limit for the particular program, unless the assistance unit is categorically eligible for the program and the asset limit requirement does not apply (cross reference: 2500 Categorical Eligibility Requirements).

UPM § 4005.10(A)(2)(a) provides that the asset limit for Medicaid for a needs group of one is \$1600.00.

The Department was correct when, on [REDACTED], it denied the Appellant's application to have her Medicaid Waiver benefits reinstated, because records showed that the Appellant's assets exceeded the \$1,600.00 limit, and the Appellant provided no proof that the assets had been spent down. When the Appellant wrote a check for \$[REDACTED].00 on [REDACTED] with the intent of holding that amount as cash-on-hand, her checking account balance was reduced, but her assets were not. She simply converted a portion of her assets into a different form, cash, that was still countable as an asset.

DECISION

The Appellant's appeal is DENIED.



James Hinckley
Hearing Officer

cc: [REDACTED]
Yecenia Acosta
Noel Lord

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 Legal Counsel, Regulations, and Administrative Hearings, 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 his 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.