

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 ID # [REDACTED]
Client ID # [REDACTED]
Hearing ID # [REDACTED]

NOTICE OF DECISION

PARTY

[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED], 2018, the Department of Social Services (the "Department") sent [REDACTED] ("the Appellant") a Notice of Action ("NOA") granting long term care medical assistance under the Medicaid program effective [REDACTED] 2018.

On [REDACTED], 2018, the Appellant's authorized representative ("Arep") [REDACTED] requested an administrative hearing to contest the Department's decision to deny certain months of benefits.

On [REDACTED], 2018, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for May 1, 2018.

On [REDACTED] 2018, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-184 of the Connecticut General Statutes, inclusive, OLCRAH held an administrative hearing. The following individuals were present at the hearing:

[REDACTED]

Gary Sardo, Department's representative
 Jacqueline Camposano, Fair Hearing Liaison, via telephone
 Swati Sehgal, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly granted the Appellant's Medicaid for Long Term Care assistance effective [REDACTED] 2018.

FINDINGS OF FACT

1. On [REDACTED] 2017, the Appellant became a resident at [REDACTED] ("the facility") in Waterford, CT. (Department's Summary)
2. On [REDACTED] 2017, the Department received the Appellant's Long Term Care Medicaid Application. (Exhibit 1: W-1LTC Application)
3. On [REDACTED], 2017, the Department mailed Verification We Need Form ("W-1348LTC") to the Appellant and the facility requesting verifications that were needed to establish eligibility. Among the items requested were bank statements. (Exhibit 3: W1348)
4. The Department received some of the requested information. (Department's testimony)
5. The Department mailed W1348LTC to the Appellant and the facility on [REDACTED], [REDACTED] requesting current bank statement and explanation for small deposits. (Exhibit 3 and Department's summary)
6. In the month of [REDACTED] 2017, the Appellant's Bank of America account [REDACTED] had a balance of [REDACTED] and account [REDACTED] had a balance of [REDACTED]. (Exhibit 4: Bank of America statement)
7. In the Month of [REDACTED] 2017, the Appellant's bank of America account [REDACTED] had a balance of [REDACTED] and account [REDACTED] had a balance of \$1 [REDACTED] (Exhibit 4)
8. In the Month of [REDACTED] 2017, the Appellant's bank of America account [REDACTED] [REDACTED] (Exhibit 4)

9. In the Month of [REDACTED] 2017, the Appellant's bank of America account [REDACTED] had a balance of [REDACTED] and account [REDACTED] had a balance of [REDACTED] (Exhibit 4)
10. In the Month of [REDACTED] 2018, the Appellant's bank of America account [REDACTED] had a balance of [REDACTED] 00 and account [REDACTED] had a balance of [REDACTED] (Exhibit 4)
11. The Asset limit is \$1600.00 for Long Term Care Medical Assistance. (Department's Testimony)
12. On [REDACTED], 2018, the Appellant was discharged home from the facility. (Department's Summary)
13. The Appellant was residing with a roommate prior to entering the facility. (Arep's testimony)
14. The Appellant's roommate had access to the Appellant's ATM card and she utilized the Appellant's bank account to cash her checks. (Arep's Testimony)
15. The Appellant's roommate was depositing checks into the Appellant's bank account. (Arep's testimony and Exhibit 4)
16. The Appellant's is the only account holder of his [REDACTED]. (Arep's testimony and Exhibit 4)

CONCLUSIONS OF LAW

1. Connecticut General Statutes §17b-2 provides in part that the Commissioner is authorized to administer the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Section 17b-261(c) of the Connecticut General Statutes 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.
3. 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.
4. Uniform Policy Manual § 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.

5. 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.
6. The Department correctly determined that the Appellant's [REDACTED] accounts were available to the Appellant.
7. UPM § 4010.05 (A) (1) provides if the assistance unit is the record owner of an asset, the unit is considered the legal owner unless it establishes otherwise, with clear and convincing evidence.
8. The Department correctly determined that the Appellant is the legal owner.
9. 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.
10. 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
11. UPM § 4015.05 (B) provides that the burden is on the assistance to demonstrate that an asset is inaccessible. For all programs except Food Stamps, in order for an asset to be considered inaccessible, the assistance unit must cooperate with the Department as directed, in attempting to gain access to the asset.
12. The Department correctly determined that the Applicants assets were accessible.
13. UPM § 4005.10 (A) provides that in the Medicaid program, the asset limit for one person is \$1,600.00.
14. UPM § 4030.05 (B) provides that the part of a checking account to be considered as a counted asset during a given month is calculated by subtracting the actual amount of income the assistance unit deposits into the account that month from the highest balance in the account for that month.
15. The Department correctly counted the Appellant's assets and determined that his assets exceeded the \$1,600.00 asset limit for the months of [REDACTED] 2017 through [REDACTED] 2017.
16. The Department correctly granted the Appellant's application for Medicaid for Long Term Care effective [REDACTED] 2018, as the assets were reduced to the allowable limit.

DISCUSSION

After reviewing the evidence and testimony presented, I find the Department correctly determined the effective date of the Appellant's Medicaid assistance.

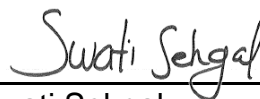
The record reflects that the Appellant's assets were not reduced to within the Medicaid limits; the funds were owned by the Appellant and exceeded the Medicaid asset limit.

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 within the Medicaid limits effective [REDACTED] 2018, the month in which the funds in the bank account were properly reduced.

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

DECISION

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



Swati Sehgal
Hearing Officer

Cc: Tyler Nardine, Operations Manager, DSS, Norwich R.O.
Jacquelyn Camposano, Fair Hearing Liaison, DSS, Norwich R.O.

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.

