

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 # 834945

**NOTICE OF DECISION**

**PARTY**

██████████  
██████████  
██████████

**PROCEDURAL BACKGROUND**

On ██████████, 2018, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") denying the Appellant's application for Long Term Care ("LTC") Medicaid benefits.

On ██████████ 2018, the Appellant's conservator requested an administrative hearing to contest the Department's decision to deny the Appellant's application for LTC Medicaid.

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, 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:

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Dorothea Kelson, Department's Representative  
Thomas Monahan, Hearing Officer

**STATEMENT OF THE ISSUE**

The issue to be decided is whether the Department's decision to deny the Appellant's application for LTC Medicaid due to failure to submit information needed to establish eligibility was correct.

### FINDINGS OF FACT

1. On [REDACTED], 2017, the Appellant applied for Medicaid Long Term Care Assistance. (Exhibit 1: LTC Application)
2. The Appellant resides at [REDACTED] and is waiting for nursing home placement. (Conservator's testimony)
3. The Appellant's [REDACTED] [REDACTED] (Hearing record)
4. On [REDACTED] 2017, the Department sent to the conservator a Verification We Need form listing the verifications required to process the application. The due date for the information was [REDACTED], 2017. The Department requested the following verifications: Verification of three [REDACTED] account balances; [REDACTED] account statements from [REDACTED] for 2012 through the present; verification of certain bank transactions and how that money was spent, and verification that bank accounts have all been spent down to the Medicaid asset limit. The request stated that no eligibility for Long Term Medicaid exists in any month which counted assets exceed 1,600.00. (Ex. 3: Verification request #1)
5. On [REDACTED], 2017, the Appellant's conservator sent the Department a letter stating that he could not verify how money was spent on some of the transactions the Department questioned. He also provided [REDACTED] [REDACTED] balances. (Ex. 4: Conservator's letter, 1 [REDACTED]/17)
6. On [REDACTED], 2017, the Department sent to the conservator a Verification We Need form listing the verifications required to process the application. The due date for the information was [REDACTED] 2017. The Department requested the following verifications: Verification of three [REDACTED] account balances and spend down of the balances; verification of certain bank transactions and how that money was spent, and verification that bank accounts have all been spent down to the Medicaid asset limit. The request stated that no eligibility for Long Term Medicaid exists in any month which counted assets exceed 1,600.00. (Ex. 6: Verification request #2)
7. On [REDACTED] 2017, the Appellant's conservator sent the Department copies of the Capital One Bank statements and on [REDACTED] 2017 he



- sent a letter explaining that he could not verify all the transactions the Department questioned. (Ex. 7: Conservator's letters [REDACTED]/17, [REDACTED]/17)
8. On [REDACTED], 2017, the Department sent to the conservator a Verification We Need form listing the verifications required to process the application. The due date for the information was [REDACTED] 2017. The Department requested the following verifications: Verification of how funds from [REDACTED] account [REDACTED] were used; verification of certain bank transactions and how that money was spent. The request stated that no eligibility for Long Term Medicaid exists in any month which counted assets exceed 1,600.00. (Ex. 8: Verification request #3)
  9. On [REDACTED], 2017, the Appellant's conservator sent the Department verification that funds from [REDACTED] were deposited in to the Conservator account. The letter stated that after his required accounting of the Appellant's funds to the court he would then spend down the assets. (Ex. 9: Conservator's letter, [REDACTED]/17)
  10. On [REDACTED], 2017, the Department sent to the conservator a Verification We Need form listing the verifications required to process the application. The due date for the information was [REDACTED], 2018. The Department requested the following verifications: Verification of the balance or closure of account for [REDACTED]; verification of the balance of the [REDACTED] account; verification of certain bank transactions and how that money was spent. The request stated that no eligibility for Long Term Medicaid exists in any month which counted assets exceed 1,600.00. (Ex. 10: Verification request #4)
  11. On [REDACTED], 2018, the Appellant's conservator sent the Department verification of the entire history of the Conservator account at Citizens Bank. (Ex. 11: Conservator's letter [REDACTED])
  12. On [REDACTED], 2018, the Department sent to the conservator a Verification We Need form listing the verifications required to process the application. The due date for the information was [REDACTED] 2018. The Department requested the following verifications: Verification of the balance or closure of account for [REDACTED]; verification of the balance of the [REDACTED] account; verification of certain bank transactions and how that money was spent. The request stated that no eligibility for Long Term Medicaid exists in any month which counted assets exceed 1,600.00. (Ex. 12: Verification request #4ext)
  13. On [REDACTED] 2018 the Appellant's conservator sent the Department verification of the entire history of the Conservator account at [REDACTED]

- █████. He also notified the Department of the spending down of a portion of her assets and that \$7,167.00 remained in the Conservator account (Ex. 13: Conservator's letter █████18)
14. On █████, 2018, the Department sent to the conservator a Verification We Need form listing the verifications required to process the application. The due date for the information was █████ 2018. The Department requested the following verifications: verification of the balance of the █████ account and how money was spent down [balance on █████/17 was █████]; verification of certain bank transactions and how that money was spent. The request stated that no eligibility for Long Term Medicaid exists in any month which counted assets exceed 1,600.00. (Ex. 14: Verification request #5)
  15. On █████, 2018 the Appellant's conservator sent the Department a letter stating he was prepared to hand over the Appellant's remaining funds to complete her spend down. He was looking for placement and requested information about a possible transfer of asset penalty (Ex. 15: Conservator's letter, █████)
  16. At the time of the hearing approximately \$█████ remained in the Appellant's Conservator account at Citizen Bank. (Hearing record)
  17. On █████ 2018, the Department denied the Appellant's application for failure to provide documentation to determine eligibility. (Ex. 16: Notice of Denial, █████)

### **CONCLUSIONS OF LAW**

1. Section 17b-2 and § 17b-260 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. Regulation provides that the assistance unit must supply the Department in an accurate and timely manner as defined by the Department, all pertinent information and verification which the Department requires to determine eligibility and calculate the amount of benefits. Uniform Policy Manual ("UPM") § 1010.05(A)(1)
3. Regulation provides that the Department must inform the assistance unit regarding the eligibility requirements of the programs administered by the Department, and regarding the unit's rights and responsibilities. UPM § 1015.10(A)

4. The Department correctly sent the Appellant's conservator multiple Verification We Need lists requesting information needed to establish eligibility.
5. Regulation provides that the Department determines eligibility within the standard of promptness for the AFDC, AABD, and MA programs except when verification needed to establish eligibility is delayed and one of the following is true: the client has good cause for not submitting verification by the deadline, or the client has been granted a 10 day extension to submit verification which has not elapsed. UPM § 1505.35(D)(2)
6. Regulation provides that for delays due to insufficient verification, regardless of the standard of promptness, no eligibility determination is made when there is insufficient verification to determine eligibility when the following has occurred: 1. the Department has requested verification; and 2. at least one item of verification has been submitted by the assistance unit within a time period designated by the Department but more is needed. UPM § 1505.40(B)(5)(a)
7. The Department correctly sent to the Appellant's AREP requests for additional documentation when the conservator sent in some, but not all of the requested verifications for the Appellant's application.
8. 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.
9. Connecticut General Statutes 17b-261(c) provides 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. 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.
10. Regulation 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. UPM § 4005.05 (A)
11. Regulation 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. UPM § 4005.05 (D)

12. Regulation provides that the Medicaid asset limit for a needs group of one is \$1,600.00. UPM § 4005.10
13. Regulation 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. UPM § 4005.15
14. The assets in the Conservator account have not been spent down to within the \$1,600.00 asset limit.
15. The Department correctly determined that the Appellant's assets exceeded the limits for Medicaid eligibility.
16. The Department correctly denied the Appellant's LTC Medicaid application.


### **DISCUSSION**

After reviewing the evidence and testimony presented, the Department's action to deny the Appellant's request for Medicaid is upheld. The correct reason for the denial is that the Appellant is over the asset limit. It is unclear from the evidence and testimony that verification of the liquidation of the Appellant's three [REDACTED] accounts was received by the Department. The Department did not request verification of closure of the [REDACTED] accounts on its final verification request. Regarding requests for money spent on certain transactions, the Conservator stated he could not verify how the money was spent on some of the transactions because of [REDACTED]. Failure to provide verification of the money spent may cause a transfer of asset penalty not a denial if all assets were verified and with the asset limit.

Regardless of any possible transfer of asset penalties, the Appellant remained over the asset limit throughout the application process and did not spend down her assets to within the \$1,600.00 limit. Regulation states that eligibility does not begin until the month that assets are within the \$1,600.00 limit.

### **DECISION**

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

  
Thomas Monahan  
Hearing Officer

C: Lisa Wells, Operations Manager, New Haven Regional Office  
Rachel Anderson, Operations Manager, New Haven Regional Office  
Cheryl Stuart, Operations Manager, New Haven Regional Office  
Dorothea Kelson, Hearing liaison

### **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 060105-3725.

### **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 06105-3725. 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.