

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

██████████ 2019
Signature Confirmation

Client ID # ██████████
Request # 129320

NOTICE OF DECISION

PARTY

██████████
██████████
████████████████████
██████████

PROCEDURAL BACKGROUND

On ██████████, the Department of Social Services (the "Department") sent ██████████ (the "Applicant") a Notice of Action ("NOA") denying Long Term Care Medicaid benefits for the months of ██████████, ██████████ and ██████████ and approving Long Term Care benefits beginning ██████████.

On ██████████, ██████████, Conservator for the Applicant (the "Appellant") requested an administrative hearing to contest the denial of the Long Term Care Medicaid for the months of April through ██████████

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

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. The following individuals were present at the hearing:

██████████, the Appellant, Conservator for ██████████, the Applicant
William Johnson, for the Department
Maureen Foley-Roy, Hearing Officer

The hearing record remained open to give the hearing officer and the Department documents submitted by the Appellant on the day of the hearing. The hearing record closed on ██████████.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny Long Term Care Medicaid benefits for the months of [REDACTED] of 2018 was correct.

FINDINGS OF FACT

1. The Applicant suffers from severe dementia and is confined to a skilled nursing facility. (Appellant's testimony)
2. On [REDACTED] the Department received an application for Title 19-Medicaid for Long Term Care for the Applicant. (Exhibit A: Application)
3. The Applicant's only regular income is a Social Security benefit of \$1308 per month which is directly deposited to her bank account. (Exhibit D: Bank statements and Appellant's testimony)
4. In addition to her [REDACTED] bank account, the Applicant has a patient trust account at the facility where she resides. The Applicant has no other assets. (Exhibits B and F: Asset Summary Sheet and Appellant's testimony)
5. On [REDACTED] 2018, the balance of the Applicant's [REDACTED] account was \$3007.57. This was the highest balance for the month of [REDACTED]. On [REDACTED] 2018, the balance of the [REDACTED] account was \$664.99 (Exhibit D)
6. On [REDACTED] 2018, the balance of the Applicant's patient trust account was \$1247.72. On [REDACTED] 2018, the balance of the patient trust account was \$1235.72. (Exhibit C: [REDACTED] Transaction History)
7. On [REDACTED] 2018, the balance of the Applicant's [REDACTED] account was \$2257.00. This was the highest balance for the month of [REDACTED]. On [REDACTED] 2018, the balance of the [REDACTED] account was \$724.99. (Exhibit D)
8. On [REDACTED] 2018, the balance of the Applicant's patient trust account was \$1235.72. On [REDACTED], 2018, the balance of the patient trust account was \$1223.61. (Exhibit C)
9. On [REDACTED] 2018, the balance of the Applicant's [REDACTED] account was \$2032.99. This was the highest balance for the month of [REDACTED]. On [REDACTED], 2018, the balance of the [REDACTED] account was \$1847.99. (Exhibit D)
10. On [REDACTED] 2018, the balance of the Applicant's patient trust account was \$1223.61. On [REDACTED], 2018, the balance of the patient trust account was \$1271.52. (Exhibit C)
11. On [REDACTED] 2018, the balance of the Applicant's [REDACTED] account was \$3155.99. This was the highest balance for the month of [REDACTED]. On [REDACTED], 2018, the balance of the [REDACTED] account was \$539.99. (Exhibit D)

12. On [REDACTED] 2018, the balance of the Applicant's patient trust account was \$1271.52. On [REDACTED] 2018, the balance of the patient trust account was \$316.52. (Exhibit C)
13. On [REDACTED] 2018, the Department denied the application for Medicaid for Long Term care for the months of [REDACTED] of 2018 because the Applicant's assets exceeded the allowable limit. (Exhibit E: Notice of Action)
14. On [REDACTED] 2018, the Department approved benefits for Medicaid for Long Term Care effective [REDACTED] 2018.
15. 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. However, the hearing record, which had been anticipated to close on [REDACTED], 2018, did not close until [REDACTED] 2018 for the review of evidence that the Appellant submitted on the date of the hearing. Because of this 3 day delay in the close of the hearing record arose from the Appellant's time frame in submitting evidence she wished to be considered, the final decision was not due until [REDACTED], 2019, and is therefore timely.

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. UPM § 4005.05 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: 1. available to the unit; or 2. deemed available to the unit. It further 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 § 4005.10 provides that the Medicaid asset limit for a needs group of one is \$1,600.00 per month.

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.

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.

UPM § 4030.05 (C) provides that money which is received as income during a month and deposited into an account during the month is not considered an asset for that month, unless the source of the money is 1. an income tax refund, or 2. cash received upon the transfer or sale of property; or 3. a security deposit returned by the landlord.

In [REDACTED] of 2018, after deducting the Applicant's income from Social Security and one other deposit (\$1308 + \$ 7.96) from the highest checking account balance (\$3007.57), the remainder (and therefore the amount counted as an asset) was \$1691.60. On [REDACTED], 2018, the Applicant's checking account balance had been reduced to \$664.99. Combined with the balance of the Applicant's resident trust account of \$1235.72, the Applicant's total assets were \$1900.71. The Applicant was over the asset limit of \$1600 for [REDACTED] of 2018.

In [REDACTED] of 2018, after deducting the Applicant's income from Social Security and one other deposit (\$1308 + \$ 284.01) from the highest checking account balance (\$2257), the remainder (and therefore the amount counted as an asset) was \$664.99. Combined with the balance of the Applicant's resident trust account of \$1223.61, the Applicant's total assets were \$1888.60. The Applicant was over the asset limit of \$1600 for [REDACTED] of 2018.

In [REDACTED] of 2018, after deducting the Applicant's income from Social Security (\$1308) from the highest checking account balance (\$2032.99), the remainder (and therefore the amount counted as an asset) was \$724.99. Combined with the balance of the Applicant's resident trust account of \$1271.52, the Applicant's total assets were \$1996.61. The Applicant was over the asset limit of \$1600 for [REDACTED] of 2018.

The Department was correct when it denied the application for Medicaid for Long Term care benefits for the months of [REDACTED] and [REDACTED] of 2018 because the Applicant's assets exceeded the limit for those months.

DISCUSSION

The Appellant's conservator argues that it is the Department's procedures, rather than the actual policy which advise that to calculate countable assets; workers should subtract income from the highest balance in the month. However, 4030.05 B clearly states that the portion of a checking account balance to be considered is the amount that remains after the income is subtracted from the highest balance. The Department applied this policy in each of the months in question. There is no conflict between the policy and the procedures and the Department's calculations of the assets are correct. The Department then reviewed the remaining assets at the end of each month and as they had not been reduced, the Applicant's assets exceeded the asset limit until [REDACTED] 2018. The Department was correct when it denied Medicaid for the months of [REDACTED] and [REDACTED] of 2018.

DECISION

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

Maureen Foley-Roy

Maureen Foley-Roy,
Hearing Officer

: Rachel Anderson, Cheryl Stuart, Lisa Wells, Operations Managers, DSS, R.O. #20,
New Haven
William Johnson, ESW, DSS R.O. #20, New Haven

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 06105-3723.

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.