

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

Case ID ██████████  
Client ID ██████████  
Request # 138053

**NOTICE OF DECISION**

**PARTY**

██████████  
██████████  
██████████

██████████  
██████████  
██████████

**PROCEDURAL BACKGROUND**

On ██████████ 2019, the Department of Social Services (the "Department") sent ██████████ (the "Applicant") a Notice of Action ("NOA") granting Long Term Care Medicaid benefits effective ██████████ 2018.

On ██████████, 2019, ██████████, the Applicant's Conservator of Estate (the "Appellant") requested an administrative hearing to contest the effective date of the Medicaid benefits as determined by the Department.

On ██████████ 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice scheduling the administrative hearing for ██████████ 2019.

On ██████████ 2019, the Appellant requested a reschedule of the administrative hearing.

On ██████████ 2019, OLCRAH issued a Notice rescheduling the administrative hearing to ██████████, 2019.

On ██████████ 2019, 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 of Estate for the Applicant

[REDACTED]  
 Jessica Gomez, Department's representative  
 Swati Sehgal, Hearing Officer

The Applicant was not present at the administrative hearing due to her institutionalization at a skilled nursing facility.

### STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to grant Medicaid benefits effective [REDACTED], 2018, was correct.

### FINDINGS OF FACT

1. The Applicant was admitted to the [REDACTED] (the "Facility") on [REDACTED] 2017. (Exhibit 3: Ascend Admission)
2. On [REDACTED] 2018, the Department received an online application for Medicaid for Long Term Care. (Exhibit 1: Copy of Long Term Care Application, [REDACTED])
3. The Applicant gets \$1246.90 a month in Social Security and \$212.73 a month in a pension. (Exhibit 1, Exhibit 7: Statement from [REDACTED] Bank, Department's Summary)
4. In [REDACTED] 2018, the Applicant's total asset amount was \$59,958.94, including \$4,401.72 in [REDACTED] Bank Account, \$52,408.48 in [REDACTED] IRA and \$2,148.74 in [REDACTED]. (Exhibit 7: Statement from [REDACTED] Account, Exhibit 8: [REDACTED] Statement, Exhibit 9: [REDACTED] Statement)
5. On [REDACTED] 2018, the Department sent W-1348M, worker generated a request for proofs requesting verifications with a due date of [REDACTED] 2018. (Exhibit 12: W-1348M, [REDACTED])
6. In [REDACTED] 2018, the Applicant's total asset amount was \$7202.64, including \$4,553.90 in [REDACTED] Account and \$ 2,148.74 in [REDACTED] Life Insurance Policy and \$500.00 in [REDACTED] Account. [REDACTED] IRA was closed and the amount of \$52,408.48 was paid towards the Facility payment. (Exhibit 7, Exhibit 8, Exhibit 9 Exhibit 11: [REDACTED] Account Statement, and Department's Summary)
7. On [REDACTED], 2018, the Department sent a follow up W-1348M, requesting additional information with a due date of [REDACTED] 2018. (Exhibit 13: W-1348M, [REDACTED])
8. In [REDACTED] 2018, the Applicant's total asset was \$7,320.94 including \$4,706.08 in [REDACTED] Account and \$ 2,148.74 in CFG and \$466.12 in [REDACTED] Account.

(Exhibit 7, Exhibit 8, Exhibit 9, Exhibit 10, Exhibit 11, and Department's Summary)

9. On [REDACTED] 2018, the Department issued W-1348M, requesting additional information with a due date of [REDACTED] 2018. (Exhibit 14: W-1348M, [REDACTED])
10. In [REDACTED] 2018, the Appellant's total asset was \$7,473.18 including \$4,858.26 in [REDACTED] Account and \$2,148.74 in [REDACTED] Life Insurance Policy, and \$466.18 in [REDACTED] Account. (Exhibit 7, Exhibit 8, Exhibit 9, Exhibit 10. Exhibit 11 and Department's Summary)
11. On [REDACTED], 2018, the [REDACTED] bank account was closed and the amount was paid towards the Facility's payment. (Exhibit 7)
12. In [REDACTED] 2018, the Applicant's total asset was \$2,614.97 including \$2,148.74 in [REDACTED] LIP, \$466.18 in [REDACTED] Account. (Exhibit 7, Exhibit 10, and Exhibit 11)
13. In [REDACTED] 2018, the Appellant was trying to surrender the Life insurance policy. (Appellant's Testimony)
14. On [REDACTED] 2018, the Department issued W-1348M requesting additional information with a due date of [REDACTED] 2018. (Exhibit 15: W-1348M, [REDACTED])
15. On [REDACTED] 2018, the [REDACTED] Life Insurance Policy was cash surrendered for \$2,148.74 and the amount was paid toward the Facility payment. (Exhibit 10)
16. In [REDACTED] 2018, the Applicant's total asset was \$167.78 (Exhibit 11 and Department's Summary)
17. On [REDACTED] 2018, the Department issued W-1348M requesting additional information with a due date of [REDACTED]. Exhibit 16: W1348M, [REDACTED])
18. On [REDACTED] 2019, the Department determined that the Appellant was asset eligible as of [REDACTED] 2018. The Department issued a notice informing the Appellant that she does not qualify for Husky C –Long Term Care Facility from [REDACTED] 2018, through [REDACTED], 2018, because the value of her asset is more than the amount allowed. (Exhibit 4: Notice Of Action, [REDACTED])
19. The issuance of this decision is timely under section 17b-61(a) of Connecticut General Statutes, 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], 2019. This decision, therefore, was due no later than [REDACTED] 2019. The hearing, however, which was originally scheduled for [REDACTED] 2019, was rescheduled for [REDACTED] 2019, at the request of the Appellant, which caused a 29-day delay. Because this 29-day delay resulted from the Appellant's

request, this decision is not due until [REDACTED] 2019, and is therefore timely.  
(Hearing Record)

### **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") § 1010.05 (A) (1) 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.
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. The Department correctly requested verifications of all types of assets available to the Appellant.
5. 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
6. UPM § 4005.05 (A) 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.
7. Conn gen stats 17b-261(h) provides to the extent permissible under federal law, an institutionalized individual, as defined in Section 1917 of the Social Security Act, 42 USC 1396p(h)(3), shall not be determined ineligible for Medicaid solely on the basis of the cash value of a life insurance policy worth less than ten thousand dollars provided the individual is pursuing the surrender of the policy.
8. The Department incorrectly counted cash value of the Applicant's life insurance policy which is less than \$10,000.00 while the Appellant was pursuing to surrender the policy.
9. UPM § 4005.10 provides that the Medicaid asset limit for a needs group of one is \$1,600.00 per month.
10. The Applicant's total asset was less than \$1600.00 for [REDACTED] 2018.

11. 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.
12. The Department incorrectly determined that the Applicant's assets were not reduced to within the asset limit for [REDACTED] 2018.

### DISCUSSION

The issue of this hearing was the effective date of the benefits for the application received on [REDACTED] 2018. The Appellant did not dispute that the Applicant was over the asset limit from [REDACTED] 2018 through [REDACTED] 2018. The Appellant's argument is that the Applicant was not over the asset limit of \$1600.00 for [REDACTED] 2018 because the Department incorrectly counted the cash value of life insurance policy the Appellant was trying to surrender.


The Department incorrectly denied assistance for the Applicant for [REDACTED] 2018. Connecticut Statutes 17b-261(h) clearly states that an institutionalized individual shall not be determined ineligible for Medicaid solely on the basis of the cash value of a life insurance policy worth less than ten thousand dollars provided the individual is pursuing the surrender of the policy. The Appellant was pursuing to surrender the Applicant's life insurance policy with a cash value of \$2148.74.

### DECISION

The Appellant's appeal is GRANTED.

### ORDER

1. The Department shall grant Medicaid for Long Term Care for [REDACTED] r 2018.
2. Compliance with this order shall be submitted to the undersigned officer no later than [REDACTED] 2019.

  
Swati Sengal  
Hearing Officer

CC: Alejandro Arbelaez, Operations Manager DSS R.O. 62, Torrington  
Jessica Gomez, Fair Hearing Liaison, DSS RO #30, Bridgeport

### **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 06105-3725.

### **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. 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.