

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 #144582

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

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

On ██████████, 2019, the Appellant requested an administrative hearing to contest the effective date of the Long Term Care 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, 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:

██████████, Appellant's Conservator of Person and Estate, Authorized Representative ("AREP")

██████████, Appellant's former Conservator of Person and Estate,
Witness for the Appellant

Janice Scricca, Department's Representative via telephone

Amy Koropatkin, Department's Representative

Miklos Mencseli, Hearing Officer

The Appellant was not present.

The hearing record closed on [REDACTED] 2019.

STATEMENT OF THE ISSUE

The issue is the effective date of Long Term Care Medicaid benefits.

FINDINGS OF FACT

1. The Appellant is a resident of a long-term care facility ([REDACTED]). (Hearing Record)
2. On [REDACTED], 2018, the Appellant submitted an application to the Department for Long Term Care Medicaid benefits. (Department's Testimony)
3. The application submitted by Attorney [REDACTED], the Appellant's Conservator at the time of application. (Summary, [REDACTED] Testimony)
4. The Appellant previously applied for State benefits. (Department's Testimony)
5. The Appellant reported to the Department on previous application having [REDACTED] Stocks (125 shares per [REDACTED] account [REDACTED]). (Summary, Department's Testimony)
6. On [REDACTED], 2019, the Department sent the Appellant Conservator a W-1348LTC We Need Verification From You form requesting information needed to process the Appellant's application. The form request verification for the current cash value or proof of surrender for the [REDACTED] (125 shares per [REDACTED]). The information was due by [REDACTED], 2019. (Exhibits 1: W-1348LTC, request 1)
7. On [REDACTED] Attorney [REDACTED] removed by Probate Court as the Appellant Conservator and replaced by Attorney [REDACTED]. (Summary, Hearing Record Testimony)
8. On [REDACTED], 2019, the Department sent the Appellant Conservator ([REDACTED]) a W-1348LTC We Need Verification From You form requesting information needed to process the Appellant's application. The form request verification for the [REDACTED] (125 shares per [REDACTED]) have been liquidated and what happened with the proceeds. The information was due by [REDACTED], 2019. (Exhibits 2: W-1348LTC, request 1)

9. The Department sent subsequent W-1348LTC forms to the Appellant Conservator as provided requested verifications received:
W-1348LTC Request #2 (Exhibit 3), W-1348LTC Request #3 (Exhibit 4)
W-1348LTC Request #4 (Exhibit 5), W-1348LTC Request #5 (Exhibit 6)
W-1348LTC Request #7 (Exhibit 7), W-1348LTC Request #8 (Exhibit 8),
W-1348LTC Request #9 (Exhibit 9).
10. On [REDACTED] 2019, the Department received verification that on [REDACTED], 2019 the sale of stock generated \$14,220.00 in proceeds. (Summary, Department Testimony)
11. On [REDACTED], 2019, \$14,200.00 payment made to the facility by cashier check dated [REDACTED], 2019. (Summary, Department Testimony)
12. On [REDACTED] 2019, the Department sent the Appellant a Notice of Approval for Long Term Medicaid, the Department granted the Appellant Medicaid effective for [REDACTED] 2019. The first month the Appellant was under the asset limit for the program. (Exhibit 10: Notice date [REDACTED]-19, Department Testimony)
13. The Appellant's prior Conservator started to contact the Hartford, company that monitored the Appellant's stock prior to her [REDACTED]-18 application. (Appellant's Exhibit A: letters dated [REDACTED]-18, [REDACTED]-18 & [REDACTED]-18)
14. The Appellant's prior Conservator was in the process of obtaining the stock to proceed with their sale when Probate Court removed her as the Appellant's Conservator on [REDACTED] 2019. (Attorney Foy Testimony)
15. The current Conservator for the Appellant had to restart the process with the Hartford causing a delay in obtaining the stocks. (Attorney Platt Testimony)
16. The Appellant is the only owner of the stock. (Attorney Platt Testimony)
17. The Appellant is seeking the earliest effective date possible. (Attorney Platt Testimony)
18. 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] 2019. Therefore, this decision is due not later than [REDACTED], 2019.

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.

“The department’s uniform policy manual is the equivalent of a state regulation and, as such, carries the force of law.” *Bucchere v. Rowe*, 43 Conn. Supp. 175, 178 (1994) (citing Conn. Gen. Stat. § 17b-10; *Richard v. Commissioner of Maintenance*, 214 Conn. 601, 573 A.2d (1990)).

2. Uniform Policy Manual (UPM) § 4030.75 (A)(1) provides for treatment of specific types of assets. The equity value of a share of stock is the net amount the owner would receive upon selling the share
3. Uniform Policy Manual (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: available to the unit; or deemed available to the unit.
4. 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.
5. UPM § 4005.05 (D) provides that an assistance unit is not eligible for benefits under a particular program if the units equity in counted assets exceeds the asset limit for the particular program.
6. The Department correctly determined that the [REDACTED] (125 shares per [REDACTED]) was an available asset and that the applicant had the legal right, authority or power to obtain the asset.
7. UPM § 4005.10(A)(2)(a) provides that the asset limit for Medicaid for a needs group of one is \$1600.00.
8. The Department correctly determined that the \$14,220.00 proceeds from the sale of the stock exceeds the Medicaid asset limit of \$1600.00.
9. Conn. Gen. Stat. §17b-2(8) Programs administered by the Department of Social Services provides that the Department of Social Services is designated as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.
10. The Department correctly determined that the Appellant did not meet the eligibility requirement of having assets under the limit prior to [REDACTED] 2019.
11. 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.

12. UPM § 1560.10 (A) provides for begin dates of Medicaid Assistance. The beginning date of assistance for Medicaid may be one of the following: the first day of the first, second or third month immediately preceding the month in which the Department receives a signed application when all non-procedural eligibility requirements are met and covered medical services are received at any time during that particular month.
13. The Department correctly determined that the Appellant's Medicaid eligibility begin date is [REDACTED], 2019, the first day of the month in which assets were reduced below the asset limit for the program.

DISCUSSION

The stock shares are available to the Appellant and are a counted asset. The Department cannot grant eligibility until the first day of the month in which the applicant reduces its equity in counted assets within the asset limit. The Department correctly determined the Appellant is eligible effective for [REDACTED] 2019.

DECISION

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


Miklos Mencseli
Hearing Officer

C: Patricia Ostroski, Operations Manager, DSS R.O. #52 New Britain

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.

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.