

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

[REDACTED], 2019  
SIGNATURE CONFIRMATION

[REDACTED]  
Request # 149144

**NOTICE OF DECISION**

**PARTY**

[REDACTED]

**PROCEDURAL BACKGROUND**

The Department of Social Services (the "Department") sent [REDACTED] (the "Appellant") a Notice discontinuing her Long Term Care ("LTC") Medicaid benefits effective [REDACTED].

On [REDACTED], 2019, the Appellant's conservator [REDACTED] requested an administrative hearing to contest the Department's decision to discontinue the Appellant's LTC Medicaid benefits.

On [REDACTED], 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for [REDACTED] 2019.

On [REDACTED] 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:

[REDACTED], Appellant's conservator  
Fred Jenkins, Department's Representative  
Thomas Monahan, Hearing Officer

**STATEMENT OF THE ISSUE**

The issue to be decided is whether the Department's decision to discontinue the Appellant's LTC Medicaid due to failure to submit verification of a reduction in assets is correct.

### **FINDINGS OF FACT**

1. The Appellant received LTC Medicaid in 2019. (Hearing record)
2. The Appellant is a resident at [REDACTED] Rehabilitation Center (the "facility"). (Hearing record)
3. On [REDACTED], 2019, the Appellant received a notice from Health Management Systems ("HMS") that she was due a refund of \$2,352.84 for the time period of [REDACTED] 2019 through [REDACTED] 2019 because she over paid her applied income to the facility for that time period. The letter stated that the facility would directly issue the refund to the Appellant. (Exhibit 1: HMS Notice of refund)
4. The Department directed the Appellant to provide verification that she spent down her refund to within the LTC Medicaid asset limit of \$1,600.00. (Hearing record)
5. Effective [REDACTED] 2019 the Department discontinued the Appellant's LTC Medicaid because the Appellant did not provide verification that her assets were reduced to within the asset limit. (Hearing record)
6. The Department received a letter from the facility stating that HMS made an error and that they did not issue a refund to the Appellant. (Exhibit 2: Letter from [REDACTED])
7. The Appellant did not receive a refund of any amount from the facility. (Conservator's testimony)
8. The Department does not have evidence that the Appellant received a check or direct deposit refund from the facility. (Hearing record)
9. The Department requested that the Appellant provide a correction letter from HMS indicating that the Appellant was not due a refund. (Hearing record)
10. The Appellant's LTC Medicaid remained closed pending a correction letter from HMS. (Hearing record)
11. 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], 2020, and is timely.

### **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. “The department’s uniform policy manual is the equivalent of 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 Income Maintenance*, 214 Conn. 601, 573 A.2d 712 (1990)).
3. 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)
4. 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)
5. Regulation provides that for LTC Medicaid the asset limit is \$1,600.00. UPM 4005.10(A)(2).
6. 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 available to the unit or deemed available to the unit. UPM § 4005.05
7. The Department requested verification of the spenddown of assets that were never verified as issued to or received by the Appellant.
8. The Department closed the Appellant’s LTC Medicaid assistance without verifying that the facility issued the refund of \$2,352.84 to the Appellant or that the Appellant’s assets exceeded \$1,600.00.
9. The Department incorrectly closed the Appellant’s LTC Medicaid benefits.

**DISCUSSION**


The Appellant's conservator's testimony and the letter from the facility are credible evidence that the Appellant did not receive the \$2,352.84 refund mentioned in the letter from HMS. The Department discontinued the Appellant due to excess assets but provided no evidence that the Appellant had assets in excess of the asset limit.

**DECISION**

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

**ORDER**

1. The Department will reinstate the Appellant's Long Term Care benefits effective [REDACTED] 2019.
2. Compliance with this order is due to the undersigned no later than 15 days from the date of this decision.

  
Thomas Monahan  
Hearing Officer

C: Trisha Morelli, Operations Manager, Middletown Regional Office  
Fred Jenkins, 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.