

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

██████████ 2020  
Signature Confirmation

Case ID# ██████████  
Request # 150811

**NOTICE OF DECISION**

**PARTY**

██████████  
██████████  
██████████

**PROCEDURAL BACKGROUND**

On ██████████, 2019, the Department of Social Services (the "Department") sent ██████████ the Power of Attorney (the "Appellant") for ██████████ (the "Applicant"), a Notice of Action ("NOA") denying her Long Term Care ("LTC") Medicaid application because her assets exceeded the Medicaid asset limit.

On ██████████, 2020, the Appellant requested an administrative hearing to contest the denial of LTC Medicaid benefits.

On ██████████, 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice scheduling the administrative hearing for ██████████, 2020.

On ██████████, 2020, 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:

██████████, Applicant's Son and Power of Attorney  
██████████, Applicant's Daughter In Law  
Angella Querette, Department's Representative  
Shelley Starr, Hearing Officer

The Applicant was not present due to her passing.

### STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny LTC Medicaid benefits was correct.

### FINDINGS OF FACT

1. On [REDACTED] 2019, the Applicant was admitted to [REDACTED] of [REDACTED] (the "facility"). (Appellant's Testimony; Hearing Record)
2. On [REDACTED] 2019, the Department received an application completed by the POA for Long Term Care ("LTC") Medicaid on behalf of the Applicant. (Hearing record; Appellant's Testimony)
3. The Application did not indicate that the Applicant had any life insurance policies. (Exhibit 5: W-1LTC application received [REDACTED] 2019; Appellant's Testimony; Department's Testimony)
4. On [REDACTED] 2019, the Department sent to the Appellant a W-1348LTC Verification We Need form requesting the completion and return of the W-1685 form enclosed with information on medical insurance coverage, [REDACTED] account [REDACTED] submit statements with checks from [REDACTED] 14 to [REDACTED] 14 and from [REDACTED] 9 to the present date closed or transferred. The information was due by [REDACTED], 2019. The notice informed the POA of the Department's \$1,600.00 asset limit and that there is no eligibility for Title 19 Long Term Care benefits in any month in which counted assets exceed \$1,600.00. (Exhibit 6: W-1348 LTC Verification We Need; Hearing Summary)
5. The Department received from the POA, the requested information by the [REDACTED], 2019, designated due date. (Department's Testimony; Hearing Record)
6. On [REDACTED], 2019, the Applicant passed. (Appellant's Testimony; Hearing Record)
7. On [REDACTED] 2019, the Department discovered that the Applicant may have life insurance policies through [REDACTED], as insurance information pertaining to three [REDACTED] policies owned by the Applicant was previously recorded in the Applicant's DSS file. (Hearing Summary; Department's Testimony; Hearing Record)
8. On [REDACTED], 2019, the Department sent to the Appellant a W-1348LTC Verification We Need form requesting proof of the face value and cash surrender value for each life insurance policy including proof from [REDACTED] of policy [REDACTED], [REDACTED] and [REDACTED]. The form stated "if any of these policies were canceled during the lookback period submit proof as to when they were canceled. If they were surrendered during the lookback period submit proof where the proceeds were deposited and how spent to benefit the client." The form further



stated “there is no eligibility for Title 19 Long Term Care benefits in any month in which counted assets exceed 1,600.00.” The information is due by [REDACTED] 2019. (Hearing Summary; Exhibit 2: W-1348LTC Verification We need dated [REDACTED] 2019; Department’s Testimony)

9. Prior to the [REDACTED] 2019, information due date, the Department received verification that the Applicant was the owner and insured of three [REDACTED] Life Insurance policies. (Exhibit 7: [REDACTED] Verification; Department’s Testimony; Hearing Record)
10. At the time of the Applicant’s passing, she was the owner and insured of three accessible [REDACTED] life insurance policies. Policy [REDACTED] was issued on [REDACTED] [REDACTED] Cash Surrender Value of [REDACTED] and Policy [REDACTED] issued on [REDACTED] [REDACTED], with a Face Value of [REDACTED] and a Cash Surrender Value of [REDACTED] (Department’s Testimony; Appellant’s Testimony; Hearing Summary; Exhibit 7: [REDACTED] Insurance Policy Verification)
11. The long term care program asset limit is \$1,600.00. (Department’s Testimony; Hearing Record)
12. On [REDACTED] 2019, the Appellant received as beneficiary, the [REDACTED] death benefit insurance proceeds from the Applicant’s three life insurance policies, which were used for the Applicant’s Funeral Expenses. (Appellant’s Testimony; Hearing Record)
13. The Appellant was unaware that the Applicant had any life insurance policies prior to the Department’s issuance of the W-1348 request for policy information issued on [REDACTED] 2019. (Appellant’s Testimony; Hearing Record)
14. On [REDACTED] 2019, the Department denied the Applicant’s application for LTC Medicaid because her assets exceed the allowable limits. (Exhibit 3: Notice of Action dated [REDACTED], 2019; Hearing Record)
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 Applicant’s Representative requested an administrative hearing on [REDACTED] 2020. This decision is due not later than [REDACTED] 2020, 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. "The department 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 Income Maintenance*, 214 Conn. 601, 573A.2d712 (1990)).
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. 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.
5. UPM § 4005.05 (B)(1)& (2) 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. (2) 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.
6. UPM § 4005.05 (D) 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.
7. UPM § 4030.30 (C) provides that the cash surrender value of life insurance policies owned by an individual are counted towards the asset limit. If the total face value of all insurance policies owned by the individual does not exceed \$1,500.00, the cash surrender value of such policies is excluded. In computing the face value of life insurance, the Department does not count insurance such as term insurance which has no cash surrender value.

8. UPM § 4005.10 provides that the Medicaid asset limit for a needs group of one is \$1,600.00.
9. 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.
10. UPM § 4015.05(A) provides that subject to the conditions described in this section, equity in an asset which is inaccessible to the assistance unit is not counted as long as the asset remains inaccessible.
11. UPM § 4015.05 (B) provides that the burden is on the assistance unit to demonstrate that an asset is inaccessible. For all programs except Food Stamps, in order for an asset to be considered inaccessible, the assistance unit must cooperate with the Department as directed, in attempting to gain access to the asset.
12. The Department correctly counted the Applicant's cash surrender value of her life insurance policies as accessible.
13. The Applicant's accessible and countable life insurance policies exceeded the \$1,500.00 total face value threshold and the cash surrender value of the policies exceeded the Medicaid asset limit of \$1,600.00.
14. The Department correctly determined that the Applicant's assets exceeded the limits for Medicaid eligibility.
15. On [REDACTED] 2019, the Department correctly denied the Applicant's LTC Medicaid application.

### **DISCUSSION**

Based on the evidence and testimony presented, I find the Department's action to deny the Applicant's request for Medicaid is upheld. The Applicant's assets were not reduced to below the \$1,600.00 asset limit prior to her passing. While it is clear that the Appellant, who is the Applicant's son and Power of Attorney, was unaware of his mother's three [REDACTED] insurance policies, the Applicant was the owner and insured, of the accessible life insurance policies which exceeded the \$1,500.00 total face value threshold. The cash surrender value of the enforced policies is counted toward the asset limit. I find no circumstances or exceptions that would exclude the cash surrender value as a countable asset in the eligibility determination.

The Department was correct to count the cash surrender value of the life insurance policies and to deny the long term care facility Medicaid as the Applicant is not eligible due to having countable assets exceeding the allowable limit.

**DECISION**

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

  
Shelley Starr  
Hearing Officer

pc: Fred Presnick, DSS, Bridgeport  
Yecenia Acosta, DSS, Bridgeport  
Tim Latifi, DSS, Bridgeport  
Angela Querette, 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 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.

