

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

Client ID # ██████████  
Request # 151974

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████, 2020, the Department of Social Services (the “Department”) sent ██████████ (the “Appellant”) a notice discontinuing her Long Term Care (“LTC”) Medicaid benefits effective ██████████ 2019.

On ██████████, 2020, the Appellant’s Power of Attorney (“POA”) ██████████ requested an administrative hearing to contest the Department’s decision to discontinue the Appellant’s 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, 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 son and POA  
Shanita Stephenson, Department’s Representative  
Pamela Corbin-Riddick, 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]. (the "facility"). (Hearing record)
3. On [REDACTED] 2018, the Appellant sold her home at [REDACTED] in [REDACTED]. The home was in an irrevocable trust. (Hearing record, Exhibit 3: Closing disclosure)
4. The POA reported the sale of the Appellant's home to the Department in [REDACTED] of 2018. (Testimony)
5. On [REDACTED], 2019, the Department requested verifications to complete the Appellant's LTC Medicaid renewal. The Department requested: proof of the Appellant's burial fund plot, proof of medical expenses, and proof of sale of the home and how the proceeds from the sale were spent. The verifications were due [REDACTED], 2019. (Exhibit 9: Verification requests, Notice of Actions)
6. On [REDACTED], 2019, the Department discontinued LTC Medicaid effective [REDACTED] 2020, for the Appellant because she did not return the proofs requested by the Department to determine ongoing eligibility. (Exhibit 9: Verification requests, Notice of Actions)
7. On [REDACTED], 2019, the Department received an unsigned disbursement statement dated [REDACTED], 2018, for the sale of her home and a typed document that the home was sold on [REDACTED] 2018, and how some of the money was dispersed. The letter notes that that \$13,287.29 remains in the Appellant's trust account after all the disbursements. No action was taken by the Department after receiving this information as the Department determined that it was not an acceptable verification. (Exhibit 4: Disbursement statement, Exhibit 5: Balance statement, Exhibit 8: Case narratives)

8. On [REDACTED] 2019 to Department requested that the Appellant provide a copy of funeral contracts and the closing disclosure from the sale of her property. (Exhibit 9: Verification requests, Notice of Actions)
9. On [REDACTED], 2019, the Department received a funeral contract and disbursement statement from the sale of the property. The Department referred the information to the LTC unit in New Britain. (Exhibit 8: Case narratives)
10. On [REDACTED], 2020 the Department's LTC unit in New Britain reviewed the funeral contract and disbursement statement provided by the Appellant. The Department sent a Request for Proofs form requesting proof of sale of the home and how the proceeds were spent. (Exhibit 9: Verification requests, Notice of Actions)
11. On [REDACTED] 2019, the Department received a copy of the closing document on the sale of the Appellant's home. The Department sent a referral to resources to review the sale of the home. (Exhibit 9: Verification requests, Notice of Actions)
12. On [REDACTED], 2019 the Department determined that the Appellant's LTC Medicaid should be reinstated pending the outcome of the resource referral on the sale of the home. The LTC Medicaid assistance was placed in pending status. ( Exhibit 8: Case narratives, Exhibit 10: Department emails)
13. On [REDACTED] 2019, the Department determined that the assets of the irrevocable trust were accessible. On [REDACTED], 2019, the Department sent the Appellant a notice requesting verification of the funds repaid to individuals who worked or paid bills on the home prior to sale. The Department also requested that the Appellant spenddown the remaining \$13,287.79 in assets in the trust to the \$1,600.00 Medicaid asset limit. The Department also spoke with the Appellant's POA regarding the necessary verifications needed to grant assistance. (Exhibit 8: Case narratives, Exhibit 9: Verification requests, Notice of Actions)
14. On [REDACTED] 2019, a representative from the facility phoned the Department regarding the Appellant LTC Medicaid eligibility. The Department informed the representative that they were still waiting for verifications and granted a ten day extension to [REDACTED], 2019 for the Appellant's representative to submit additional information. (Exhibit 8: Case narratives)

15. On [REDACTED] 2020, the department closed the Appellant's LTC Medicaid from [REDACTED] 2019, through [REDACTED], 2020, and approved a LTC Medicaid spenddown for the month of [REDACTED] 2019 and closed the spenddown [REDACTED], 2019. The Department closed the case because the Appellant's assets exceeded Medicaid asset limit. (Exhibit 9: Verification requests, Notice of Actions)
16. As of the date of the hearing the Appellant's balance at [REDACTED] bank remained at \$13,287.79. (Testimony)
17. 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], 2020. 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. 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.
4. UPM § 4005.05(A) provides that "For every program administered by the Department, there is a definite asset limit".
5. 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:
  - a. available to the unit; or
  - b. deemed available to the unit."

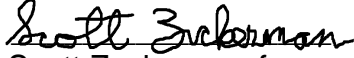
6. UPM § 4005.05(B)(2) provides that “Under all programs except Food Stamps, the Department considers an asset available when actually available to the individual or when the individual has the legal right, authority or power to obtain the asset, or to have it applied for, his or her general or medical support”.
7. UPM § 4005.05(C) provides that “The Department does not count the assistance unit’s equity in an asset toward the asset limit if the asset is either:
  1. excluded by state or federal law; or
  2. not available to the unit.”
8. UPM § 4005.05(D) provides that:
  1. The Department compares the assistance unit’s equity in counted assets with the program asset limit when determining whether the unit is eligible for benefits.
  2. 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, unless the assistance unit is categorically eligible for the program and the asset limit requirement does not apply (cross reference: 2500 Categorical Eligibility Requirements).
9. UPM § 4005.10(A)(2)(a) provides that the asset limit for Medicaid for a needs group of one is \$1,600.00.
10. ██████████ 2019, the Department correctly issued a notice which requested that the Appellant reduce her assets to \$1,600.00.
11. The Department correctly counted the remaining assets from the sale of the home toward the asset limit.
12. The Department correctly closed the Appellant’s LTC Medicaid assistance because her assets exceeded the asset limit.

### **DISCUSSION**

At the hearing the Appellant’s POA testified that he would have spent down the remaining assets after the sale of the home but he was unsure of what to do and could not get direction from the Department. The Department sent a final verification request on ██████████, 2019, and spoke to the Appellant’s POA on the phone. Although there was confusion throughout the review process the Department did notify the POA of the asset requirements and correctly closed the case because assets were not reduced within the time limits allowed by the Department.

**DECISION**

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

  
Scott Zuckerman for  
Thomas Monahan  
Hearing Officer

C: Peter Bucknall, Operations Manager, Waterbury Regional Office  
Jamel Hilliard, Operations Manager, Waterbury Regional Office  
Shanita Stephenson, 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.