

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# \_\_\_\_\_  
Client ID # \_\_\_\_\_  
Request # \_\_\_\_\_

**NOTICE OF DECISION**

**PARTY**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_

**PROCEDURAL BACKGROUND**

On \_\_\_\_\_ 2020, the Department of Social Services (the “Department”) sent \_\_\_\_\_ (the “Appellant”) a Notice of Action (“NOA”) denying his application for Husky C, Long term Care Facility benefits under the Medicaid program.

On \_\_\_\_\_ 2020, the Appellant requested an administrative hearing to contest the Department’s decision to deny such benefits.

On \_\_\_\_\_ 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a Notice scheduling the administrative hearing for \_\_\_\_\_, 2020.

On \_\_\_\_\_ 2020, the Appellant requested a continuance of the hearing, which was granted.

On \_\_\_\_\_ 2020, 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:

\_\_\_\_\_, Representative for POA, \_\_\_\_\_  
Paula Wilczynski, Department Representative  
Almelinda McLeod, Hearing Officer

██████████ - POA for Appellant, ██████████ was not present  
 ██████████, Appellant was not present

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether the Department's decision to deny the Appellants application for long term care facility care under the Medicaid program was correct.

### **FINDINGS OF FACT**

1. On ██████████ 2015, ██████████ became the Appellant's Power of Attorney ("POA") (Exhibit 2)
2. The Appellant was residing at ██████████ at ██████████, an assistant living facility. (Exhibit 1 and hearing record)
3. On ██████████, 2020, the POA submitted an application on behalf of the Appellant for long term care facility benefits under the Medicaid program. (Exhibit 1)
4. On ██████████ 2020, the Department issued a W-1348 LTC "We Need Verification from You" form requesting the name of the Skilled Nursing facility, investment information, medical insurance and asset information specifically regarding transactions with ██████████ Bank accounts numbers ending with ██████████ and ██████████. This information was due by ██████████, 2020. (Exhibit 4)
5. On ██████████ 2020, the Department issued a 2<sup>nd</sup> W-1348 LTC "We Need Verification from You" form requesting the name of the Skilled Nursing facility, investment information and transaction information with ██████████ bank accounts ██████████ and ██████████. The due date for this information was ██████████ 2020. (Exhibit 5)
6. On ██████████ 2020, the Department received a letter from ██████████ ██████████, attorneys and Counselors at law in response to W-1348 request #2. (Exhibit 3 and 6)
7. The letter of ██████████ 2020 attested:
  - that the Appellant was currently residing at ██████████ ██████████. The Appellant was to move into a skilled nursing facility but because of the pandemic, moving the applicant at this time was impossible.

- that the transactions from the Appellants [REDACTED] account in the amount of \$15,000.00 on [REDACTED] 2018 into [REDACTED] bank account [REDACTED] for \$11,000.00 and [REDACTED] bank account [REDACTED] for \$4,000.00.
  - that a transfer of \$40,000 from the Appellant's [REDACTED] account into [REDACTED] bank account [REDACTED] which occurred on [REDACTED] 2019.
  - that the attached copy of [REDACTED] bank account [REDACTED] statement from [REDACTED] 2020 to [REDACTED] 2020 showed a balance as of \$55,962.96. (Exhibits 3 and 6)
8. The asset limit for the long term care facility Medicaid program is \$1600.00. (Hearing summary)
  9. On [REDACTED] 2020, the Department issued a Notice of Action to the Appellant denying the application for long term care facility Medicaid because the value of the assets was more than the amount allowed for this program. (Exhibit 9)
  10. The issuance of this decision under Connecticut General Statutes 17b-61 (a) which requires that a decision be issued within 90 days of the request for an administrative hearing has been extended to "not later than 120 days " after a request for a fair hearing pursuant to Section 17b-60 by order of Department of Social Services Commissioner dated [REDACTED] 2020. The Appellant requested an administrative hearing on [REDACTED] 2020. However, the authorized representative requested to reschedule the administrative hearing which delayed the closing of this record by [REDACTED] days. Because of the delay in the close of the hearing record, this final decision was not due until [REDACTED] 2020, and is therefore timely.

### CONCLUSIONS OF LAW

1. Section 17b-2 (6) of the Connecticut General Statutes 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.
2. 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 Income Maintenance*, 214 Conn. 601, 573 A.2d 712 (1990)).

3. Uniform Policy Manual ("UPM") 3015.05 (A) (1) (b) provides that residents in long term care facilities, which are not tuberculosis or mental disease facilities, including skilled nursing facilities; intermediate care facilities; institutions for the mentally retarded meet the eligibility requirement regarding institutional status for AABD or MA.
4. **The Department correctly determined that the Appellant did not reside in a skilled nursing facility, intermediate care facility or an institution for the mentally retarded.**
5. **The Department correctly determined the Appellant did not meet the institutional requirement for the long term care facility under the Medicaid program.**
6. UPM 4005.05 (A) provides that for every program administered by the Department, there is a definite asset limit.
7. UPM 4005.10 (2) (a) provides that the asset limit for the AABD program for a needs group f one is \$1600.00.
8. UPM 4005.05 (B) (1) (a) (b) provides 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.
9. 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.
10. UPM 4005.05 (C) (1) (2) provides that the Department does not count the assistance unit's equity in an asset toward the asset limit if the asset is either excluded by state or federal law; or not available to the unit.
11. UPM 4005.05 (D) (1) provides that 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.
12. UPM 4005.05 (D) (2) 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, unless the assistance unit is categorically eligible for the program and the asset limit requirement does not apply (cross reference: 2500 Categorical Eligibility Requirements.)

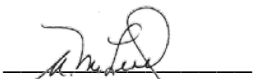
13. The Department correctly determined that the \$55,000.00 in the Appellant's ■■■ bank account was an available asset to the Appellant.
14. The Department correctly determined that \$55,000.00 exceeded the asset limit of \$1600.00 for the long term care facility under the Medicaid program.
15. The Department correctly denied the Appellant's application for long term facility care under the Medicaid program due to excess assets.

### **DISCUSSION**

Based on evidence and testimony presented in this hearing; the Department's action to deny the Appellant's application for the long term facilities care under the Medicaid program is affirmed. The Appellant did not meet the eligibility criteria of residing in a skilled nursing facility nor meeting the asset limit of \$1600.00 in order to qualify for the long term care facility benefits under the Medicaid program.

### **DECISION**

The Appellant's appeal is DENIED

  
Almelinda McLeod  
Hearing Officer

CC: Rachel Anderson, SSOM New Haven Regional Office  
Cheryl Stuart, SSOM, New Haven Regional Office  
Lisa Wells, SSOM New Haven Regional Office  
Paula Wilczynski, Fair Hearing Liaison, New Haven Regional Office

### **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 Legal Counsel, Regulations, and Administrative Hearings, 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 his 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.