

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#: ██████████
Case ID #: ██████████
Hearing ID#: 162245

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████, 2020, the Department of Social Services (the "Department") granted ██████████, ("the Appellant") Long Term Care Medicaid benefits effective ██████████ 2020.

On ██████████ 2020, the Appellant requested an administrative hearing to contest the Department's decision to deny certain months of benefits and requested that the Department grant benefits back to ██████████ 2020.

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 4-184 of the Connecticut General Statutes, inclusive, OLCRAH held an administrative hearing. The following individuals were present at the hearing:

██████████, the Appellant
██████████, Appellant's Conservator
██
Trish Gethers, Department's Representative
Scott Zuckerman, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly granted the Appellant's Long Term Care Medicaid benefits effective [REDACTED] 2020.

FINDINGS OF FACT

1. [REDACTED], 2020, the Appellant was admitted to [REDACTED] [REDACTED] ("the facility"). The Appellant's Medicaid Spenddown benefits were inactive on this date. (Hearing Summary and Exhibit 1: Ascend Connecticut Data Application)
2. On [REDACTED] 2020, the Appellant received Long Term Level of Care Approval retroactive to [REDACTED], 2020. (Hearing Summary and Exhibit 1: Ascend Connecticut Data Application)
3. On [REDACTED], 2020, the Appellant's Union Savings Bank checking account [REDACTED] had an ending balance of \$85.92. (Exhibit 6: Bank statements [REDACTED] 2020 through [REDACTED] 2020)
4. On [REDACTED], 2020, the Appellant's Union Savings Bank checking account # [REDACTED] had an ending balance of \$4,975.90. (Exhibit 6)
5. On [REDACTED], 2020, the Appellant's People's United Bank account # [REDACTED] had an ending balance of \$2,402.44. (Exhibit 6)
6. On [REDACTED] 2020, the Appellant's Union Savings Bank checking account # [REDACTED] had an ending balance of \$0.00 and the account was closed. (Exhibit 6)
7. On [REDACTED], 2020, the Appellant's Union Savings Bank checking account [REDACTED] had an ending balance of \$5,702.82. (Exhibit 6)
8. On [REDACTED], 2020, the Appellant's People's United Bank account # [REDACTED] had an ending balance of \$2,807.83. (Exhibit 6)
9. On [REDACTED] 2020, the Appellant's net Social Security of \$641.00 was deposited into Union Savings Bank account # [REDACTED]. (Exhibit 6)
10. On [REDACTED] 2020, the Appellant withdrew the total balance of \$6,343.82 and closed the Union Savings bank account [REDACTED]. (Exhibit 6)
11. On [REDACTED] 2020, the Appellant opened Union Savings Bank account # [REDACTED]. (Appellant's representative's testimony)
12. On [REDACTED], 2020, the Appellant's Union Savings Bank account # [REDACTED] had an ending balance of \$2,343.82. (Exhibit 6)

13. On [REDACTED], 2020, the Appellant's People's United Bank account # [REDACTED] had an ending balance of \$2,134.66. (Exhibit 6)
14. On [REDACTED] 2020, the Appellant's Union Savings account # [REDACTED] had an ending balance of \$2,343.82. (Exhibit 6)
15. On [REDACTED] 2020, the Appellant's People's United Bank account [REDACTED] had an ending balance of \$1862.67. (Exhibit 6)
16. The Asset limit for Long Term Care Medical Assistance is \$1600.00 for a household of one. (Department's Testimony)
17. On [REDACTED] 2020, the Department sent the Appellant and his Power of Attorney ("POA") a W-1348, Proofs We Need form requesting verifications needed to determine eligibility for Long Term Care Medicaid benefits. Among the items requested were bank statements from Union Savings Bank from [REDACTED] 2015 through present. The due date for the requested information was [REDACTED] 2020. (Exhibit 2: W-1348, [REDACTED]/2020)
18. On [REDACTED] 2020, the Appellant's POA requested an extension in obtaining the requesting verifications. The Department extended the due date to [REDACTED] 2020. (Hearing Summary)
19. On [REDACTED] 2020, the Appellant's Union Savings account # [REDACTED] had an ending balance of \$2343.82. (Exhibit 6)
20. On [REDACTED] 2020, the Appellant's People's United Bank account # [REDACTED] had an ending balance of \$1832.15. (Exhibit 6)
21. On [REDACTED] 2020, the Department sent the Appellant and his POA a W-1348LTC, requesting verifications needed to determine eligibility for Long Term Care Medicaid benefits. The Department requested bank statements, proof of the [REDACTED] withdrawal of \$6,343.82, bank statements for account [REDACTED] verification of face and surrender values of life insurance policies. The due date for the requested information was [REDACTED] 2020. The Department indicated there will be no eligibility in any months with assets in excess of \$1600.00. (Exhibit 3: W-1348 # 2 [REDACTED]/2020)
22. On [REDACTED] 2020, the Appellant's Union Savings account # [REDACTED] had an ending balance of \$2,343.82. (Exhibit 6)
23. On [REDACTED] 2020, the Appellant's People's United Bank account # [REDACTED] had an ending balance of \$1,312.85. (Exhibit 6)
24. On [REDACTED] 2020, the Department sent the Appellant and his POA a W-1348LTC, requesting verifications needed to determine eligibility. The Department requested

bank statements reduce and assets to the \$1600.00 asset limit. The due date for the requested items was ██████████ 2020. The Department indicated there will be no eligibility in any months with assets in excess of \$1600.00. (Exhibit 4: W-1348 #3, ██████████/2020)

25. On ██████████ 2020, the Department sent the Appellant a W-1348LTC, requesting verifications needed to determine eligibility. The Department requested bank statements from Union Savings Bank account ██████████. The Department indicated there will be no eligibility in any months with assets in excess of \$1600.00. (Exhibit 5: W-1348LTC, #4, ██████████/2020)

26. The Appellant is the owner of New York Life Insurance Company ██████████. The policy has a face value of \$1000. The Policy’s cash value is \$1,126.00. (Exhibit 6: New York Life Insurance Company, Annual Policy Statement, ██████████/2020)

27. The New York Life Insurance policy’s cash value is exempt from the asset limit as the face value is under \$1500.00 (Department’s testimony)

28. The Appellant’s assets for the months of ██████████ 2020 through ██████████ 2020 were the following:

Month	Union Savings Bank ██████████	Union Savings Bank # ██████████	Union Savings Bank # ██████████	Peoples United Bank # ██████████
██████████ 2020	\$85.92	\$4,975.90		\$2402.44
██████████ 2020	\$85.92	\$5,702.82		\$2807.83
██████████ 2020	Closed	Closed	\$2343.82	\$2134.66
██████████ 2020	Closed	Closed	\$2343.82	\$1862.67
██████████ 2020	Closed	Closed	\$2343.82	\$1832.15
██████████ 2020	Closed	Closed	\$2343.82	\$1312.85
██████████ 2020	Closed	Closed	\$43.82	\$1116.55

(Ex. 6 Bank Statements)

29. In ██████████ 2020, the Appellant reduced his assets below \$1600.00. (Hearing Summary and Exhibit 6)

30. On ██████████ 2020, the Department granted the Appellant’s application for Long Term Care Medicaid Assistance effective ██████████ 2020. (Hearing Summary, Ex. 6: Notice of Action, ██████████/2020, Ex. 9: Notice of Approval for Long Term Care Medicaid, ██████████/2020)

31. 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

██████████ 2020. Therefore, this decision is due not later than ██████████ 2020.

CONCLUSIONS OF LAW

1. Connecticut General Statutes §17b-2 provides in part that the Commissioner is authorized 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 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. "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." Uniform Policy Manual § 4005.05 (B)(1)
4. "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." UPM § 4005.05 (B)(2)
5. "Bank accounts include the following. This list is not all inclusive." UPM § 4030.50(A)
 1. Savings account;
 2. Checking account;
 3. Credit union account;
 4. Certificate of deposit;
 6. Patient account at long-term care facility;
 7. Children's school account;
 8. Trustee account;
 9. Custodial account.
6. "That part of a checking account to be considered as a counted asset during a given month is calculated by subtracting the actual amount of income the assistance unit deposits into the account that month from the highest balance in the account for that month." UPM § 4030.05(B)

The Department correctly determined that the Appellant's Union Savings Bank and People's United Bank accounts are counted assets and were available to the Appellant.

7. UPM § 4030.30(A) provides that for all programs: 1. The owner of a life insurance policy is the insured unless otherwise noted on the policy, or if the insurance company confirms that someone else, and not the insured, can cash in

the policy; and 2. Policies such as term insurance policies having no cash surrender value are excluded assets.

8. UPM § 4030.30(C) provides that for the AABD and MAABD programs: 1. If the total face value of all life insurance policies owned by the individual does not exceed \$1500.00, 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; and 2. Except as provided above, the cash surrender value of life insurance policies owned by the individual is counted toward the asset limit.

The Department correctly determined the cash surrender value of the Appellant's New York Life Insurance Policy is excluded as the face value of \$1000.00 is under the \$1500.00 threshold.

9. UPM § 1560.10 discusses Medicaid beginning dates of assistance and provides that the beginning date of assistance for Medicaid may be one of the following:
- A. 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; or
 - B. The first day of the month of application when all non-procedural eligibility requirements are met during that month; or
 - C. The actual date in a spenddown period when all non-procedural eligibility requirements are met. For the determination of income eligibility in spend-down, refer to Income Eligibility Section 5520; or
 - D. The first of the calendar month following the month in which an individual is determined eligible when granted assistance as a Qualified Medicare Beneficiary (Cross Reference: 2540.94). The month of eligibility determination is considered to be the month that the Department receives all information and verification necessary to reach a decision regarding eligibility.
10. UPM § 4026.05 pertains to the calculation method for counted assets and states:

The amount of assets counted in determining the assistance unit's eligibility is calculated in the following manner:

- A. The Department determines the amount of the assistance unit's available non-excluded assets by subtracting the value of the following assets owned by the assistance unit:
 - 1. those assets considered to be inaccessible to the assistance unit at the time of determining eligibility; and
 - 2. assets which are excluded from consideration.
- B. The Department adjusts the amount of the assistance unit's available non-excluded assets by:

1. subtracting a Community Spouse Disregard (CSD), when appropriate, for those individuals applying for assistance under the MAABD program (Cross Reference: 4022.05); and
2. adding any amount of assets deemed to be available to the assistance unit (Cross Reference: 4025); and
3. subtracting a Long-Term Care Insurance Disregard (LTCID), when appropriate, for those individuals applying for or receiving assistance under the MAABD program (Cross Reference: 4022.10).

C. The amount remaining after the above adjustments is counted.

The Department correctly counted the Appellant's assets for the months of [REDACTED] 2020 through [REDACTED] 2020.

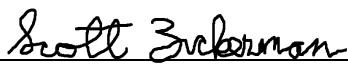
11. "In the Medicaid program, the asset limit for one person is \$1,600.00." UPM 4005.10 (A)
12. "In the Medicaid program at the time of application, the assistance unit is ineligible until the first day of the month in which it reduces its equity in counted assets to within the asset limit." UPM § 4005.15 (A)(2)

The Appellant had assets that exceeded the Medicaid asset limit of \$1600.00 for the months of [REDACTED] 2020 through [REDACTED] 2020.

On [REDACTED] 2020, the Department correctly granted the Appellant's application for Long Term Care Medicaid effective [REDACTED] 2020, as the assets were reduced to under the allowable limit.

DECISION

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


Scott Zuckerman
Hearing Officer

Cc: Carol Sue Shannon, Operations Manager, DSS, Danbury Regional Office
Trish Gethers, Fair Hearing Liaison, DSS, Bridgeport 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 Administrative Hearings and Appeals, 55 Farmington Avenue, Hartford, CT 06105-3725.

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. 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.