

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

██████████ 2021
Signature Confirmation

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Request #164195

NOTICE OF DECISION
PARTY

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PROCEDURAL BACKGROUND

██████████, 2020, the Department of Social Services (the "Department") sent ██████████ (the "Applicant") a Notice of Action ("NOA") granting Long Term Care Medicaid benefits effective ██████████ 2020, and denying such benefits for the months of ██████████ 2019, ██████████ 2020, ██████████ 2020, ██████████ 2020, ██████████ 2020, ██████████ 2020 and ██████████ 2020.

██████████, 2020, ██████████ (the "Appellant"), the Applicant's Conservator of the Estate and Person, requested an administrative hearing to contest the effective date of the Long Term Care Medicaid benefits as determined by the Department.

██████████, 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice scheduling the administrative hearing for ██████████ 2020. The hearing was scheduled to be held telephonically due to the COVID-19 pandemic.

██████████, 2020, in accordance with sections 17b-60, 17-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, OLCRAH held a telephone administrative hearing. The hearing was held telephonically with no objection from any of the parties. The following individuals called in for the hearing:

██████████, Appellant and Applicant's Conservator
██████████ Health Center (the "Facility")
Nancy Sciascia, Department's Representative
Veronica King, Hearing Officer

The hearing record remained open for the submission of additional evidence. On ██████████ 2020, the record closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to grant Long Term Care benefits effective [REDACTED] 2020, was correct.

FINDINGS OF FACT

1. [REDACTED], 2019, the Department received an application for Medicaid for Long Term Care for the Applicant. The Applicant entered [REDACTED] Health Center facility on [REDACTED], 2019. The Application was signed by the Applicant and her authorized representative, [REDACTED] [REDACTED]. (Exhibit 1: W-1 LTC Application form and Hearing Record)
2. [REDACTED], 2019, the Department reviewed the application and sent the authorized representative a Verification We Need Form ("W1348LTC") requesting verification of income, assets and other verifications. The W1348 stated "Title 19 cannot be granted for any month in which total assets exceed \$1600.00. Continue to provide updated bank statements for all open bank accounts, as they become available, until Title 19 is granted." (Exhibit 4: W1348 LTCs)
3. The Department received an email from the Facility informing that the Applicant's authorized representative was no longer willing to be involved with the application process and to send all correspondence to the Facility's business office. The Facility provided a W298 Authorization for Disclose of Information, signed by the Applicant authorizing the Facility to act as authorized representative for the Applicant. (Exhibit 2: W298 form and Hearing Record)
4. [REDACTED], 2019, the Department sent the Facility a second W1348LTC requesting verification of income, assets and other verifications. (Exhibit 4)
5. [REDACTED], 2020, the Department sent the Facility a third W1348LTC requesting the following missing information: Bank statements from [REDACTED] Bank acct# [REDACTED] [REDACTED]/19 to present date and from [REDACTED] Bank acct# [REDACTED] [REDACTED] 19 to present date. (Exhibit 4)
6. [REDACTED], 2020, the Department sent the Facility a W1348LTC requesting from [REDACTED] Bank [REDACTED] [REDACTED]/19 to present and [REDACTED]r Bank acct# [REDACTED] bank statements from [REDACTED] 19 to present date by [REDACTED]/20. (Exhibit 4)
7. [REDACTED], 2020, the Department received an email from the Facility with a copy of the conservator document dated [REDACTED] 2020 appointing [REDACTED] (the Appellant) as Conservator of Person and Estate. (Exhibit 3: Court of Probation document and Hearing Record)

8. ██████████ 2020, the Department sent the Appellant a W1348LTC requesting bank statements from ██████████ Bank acct# ██████████ 19 to present date by ██████████/20. (Exhibit 4)
9. The Appellant worked conscientious with the banks and other companies to obtain access to the Applicant's accounts information and sent to the Department as soon as she received the required verifications. (Appellant's Testimony Hearing Record)
10. ██████████, 2020, the Department received verification that the Applicant's ██████████ r Bank acct# ██████████ closed on ██████████20 and the money from the closing account was given to the Facility. (Exhibit 8: Case Notes)
11. ██████████, 2020, the Department sent the Appellant a W1348LTC requesting bank statements from ██████████ Bank acct# ██████████ from ██████████/20 to present date by ██████████/20. (Exhibit 8)
12. Due to the Covid-19 Pandemic, the Department granted 9 extensions to allow more time for the information to be submitted. (Department's Representative's Testimony)
13. ██████████ 2020, the Appellant sent an email to the Department stating that she closed the Applicant's ██████████ Bank acct# ██████████ and received a check with the monies from closing. The monies will be turned over to the Facility. (Exhibit 5: Emails correspondences)
14. ██████████ ██████████, 2020, the Department received all needed verifications. The Applicant's Bank Accounts statements reflects that she had over \$1, 600.00 on her bank accounts in ██████████2019, ██████████ 2020, ██████████ 2020, ██████████ 2020, ██████████ 2020, ██████████ 2020, and ██████████2020 (Hearing Record, Exhibit 6: Assets spread sheet and Exhibit 10: Bank Statements)
15. The Medicaid asset limit is \$1,600.00. (Hearing Record)
16. ██████████, 2020, the Department granted Medicaid for Long Term Care for the Applicant effective ██████████ 2020. (Exhibit 9: NOA dated ██████████/20)
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 ██████████ 2020. This decision, therefore, was due no later than ██████████ 2021. However, the record was closed on ██████████ 2020, with agreement of both parties. Because this 2 day delay this decision is not due until ██████████ 2020. (Hearing Record)

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. Uniform Policy Manual (“UPM”) § 1505.15 (C)(1)(3) states in part that a conservator, guardian or other appointed fiduciary individual are qualified to request cash or medical assistance, be interviewed and, complete the application process on behalf who they represent.
3. 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. UPM § 4005.10 provides that the Medicaid asset limit for a needs group of one is \$1,600.00 per month.
5. Section 17b-261(c) of the Connecticut General Statutes provides in part 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.
6. UPM § 4000.01 defines available assets as cash or any item of value which is actually available to the individual or which the individual has the legal right, authority or power to obtain, or to have applied for, his or her general or medical support.
7. UPM § 4005.05(B) speaks to the asset limit and states in part:
 1. The Department counts the assistance unit's equity in an asset towards 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.
 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.
8. UPM § 4030.05 (B) stated that 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.

9. UPM § 4030.30 (C) (1) states that if the total face value of all life insurance policies owned by the individual does not exceed \$1,500, 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. (2) Except as provided above, the cash surrender value of life insurance policies owned by the individual is counted towards the asset limit.
10. 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.

The Department correctly determined that the total amounts of the Applicant's Bank Accounts were counted towards the Medicaid Program asset limit.

11. 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.

The Department correctly determined that the Appellant was ineligible for Medicaid for Long Term Care for the months of [REDACTED] 2019, [REDACTED] 2020, [REDACTED] 2020, [REDACTED] 2020, [REDACTED] 2020, [REDACTED] 2020 and [REDACTED] 2020, because the Applicant's assets exceeded the allowable asset limit of \$1600.

The Department correctly determined that the Applicant's assets were reduced to below \$1600 in [REDACTED] 2020.

The Department correctly granted Medicaid for Long Term Care effective [REDACTED] 2020.

DISCUSSION

Regulations provide that eligibility for the Medicaid program begins the first day of the month in which the assistance unit reduces its equity in counted assets to within the asset limit. The record reflects that the Applicant's assets were within the Medicaid limits effective [REDACTED] 2020, the month in which the Applicant's [REDACTED] Bank Account was closed and spenddown. In accordance with regulations, prior [REDACTED] 2020, the funds were accessible to the Applicant and exceeded the Medicaid asset limit.

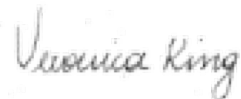
The Appellant provided testimony and evidence that she worked diligent on the Applicant's application and submitted to the Department all requested verifications as best as she could. The Appellant argued that the fact that she became the Applicant's Conservator after the Application was pending for several months and that due to the Covid-19 Pandemic and the financial companies procedures it delayed her ability to access the Applicant's Bank Accounts and the spenddown process. The evidence does indicate that good effort was made in obtaining the necessary verifications to complete

the Appellant's application. However, the assets (Bank Accounts) were owned by the Applicant and accessible during that time, therefore must be counted as accessible assets by the Department.

Based on policy and regulations, the Department properly granted benefits beginning in the month of [REDACTED] 2020 when she became asset eligible. The Department properly denied the Applicant assistance for the months of [REDACTED] 2019, [REDACTED] 2020, [REDACTED] y 2020, [REDACTED] 2020, [REDACTED] 2020, [REDACTED] and [REDACTED] 2020.

DECISION

The Appellant's appeal is DENIED.



Veronica King
Hearing Officer

Cc: Jamel Hilliard, DSS Operation Manager, DO#60 Waterbury
Nancy Sciascia, DSS Fair Hearing Liaison, DO#60 Waterbury

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.

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, 165 Capitol Avenue, 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.