

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

Client ID#: ██████████
Case ID #: ██████████
Hearing ID#: 167748

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 her application for Long Term Care Medicaid benefits.

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 the administrative hearing be rescheduled.

On ██████████, 2020, OLCRAH issued a notice rescheduling 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's Conservator
██████████ Attorney, ██████████
██████████, Business Office Manager, ██████████
██████████, Attorney for the Appellant's Conservator
Charles Simmons, Department's Representative
Megan Finlayson, Department's Representative
Scott Zuckerman, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly denied the Appellant's application for Long Term Care Medicaid benefits.

FINDINGS OF FACT

1. On ██████████ 2017, Housatonic Probate Court appointed ██████████ as Conservator of Estate for the Appellant. (Appellant's Exhibit D)
2. On ██████████, 2018, the Appellant was admitted to ██████████ ("the facility"). (Hearing Record)
3. On ██████████ 2018, the Appellant applied for Husky C Medicaid. (Hearing Record)
4. On ██████████ 2018, the Appellant's application for Husky C Medicaid was denied for not returning all the required proofs asked for by the Department. (Appellant's Exhibit E).
5. On ██████████, 2019, the Appellant's Union Savings Bank checking acct # ██████████ had an ending balance of \$13,008.10. (Exhibit 12: Union Savings Bank Statements)
6. The Appellant was the owner of an AARP Life insurance policy with a face value of \$10,000. (Hearing Record)
7. On ██████████ 2019, the Appellant's Union Savings Bank checking acct # ██████████ had an ending balance of \$18,510.70. (Exhibit 12: Union Savings Bank Statements)
8. On ██████████ 2019, the Appellant's Union Savings Bank checking acct # ██████████ had an ending balance of \$23,966.54. (Exhibit 12: Union Savings Bank Statements)
9. On ██████████ 2019, the Appellant applied for Long Term Care Medicaid benefits. (Hearing Summary, Appellant's representative's Brief, Exhibit 1: Application ██████████, 2019)
10. On ██████████, 2019, the Appellant's Union Savings Bank checking acct # ██████████ had an ending balance of \$23,289.01. (Exhibit 12: Union Savings Bank statements)

11. On [REDACTED], 2019, the Department sent the Appellant a W-1348LTC, Verification We Need form requesting information needed to establish eligibility. Among the items needed was bank statements for Union Savings Bank account # [REDACTED] and [REDACTED], statements from Bank of America account [REDACTED] and proof of closure, face and cash surrender values from [REDACTED] life insurance, proof vehicles have been sold, tax returns, and property deeds or other verification of real estate in past 5 years for [REDACTED] and [REDACTED]. The notice stated that total assets cannot exceed \$1600.00 for Title 19 Long Term Care benefit eligibility. (Exhibit 2: W-1348LTC, [REDACTED]/2019)
12. On [REDACTED] 2019, the Appellant's Union Savings Bank checking acc # [REDACTED] had an ending balance of \$29,268.20. (Exhibit 12: Union Savings Bank statements)
13. On [REDACTED], 2019, the Department sent the Appellant a W-1348LTC, requesting information needed to establish eligibility. Among some of the items needed were bank statements, [REDACTED] insurance policy cash surrender value, listing agreement for [REDACTED] and tax returns. The notice stated that total assets cannot exceed \$1600.00 for Title 19 Long Term Care benefit eligibility. (Exhibit 3: W-1348LTC, [REDACTED]/19)
14. On [REDACTED], 2019, the Appellant's Union Savings Bank checking acct # [REDACTED] had an ending balance of \$34,735.14. (Exhibit 12: Union Savings Bank statements)
15. On [REDACTED], 2019, the Department sent the Appellant a W-1348LTC, requesting information needed to establish eligibility. Among the items needed were bank account statements, cash surrender value of AARP life insurance policy, listing agreement for [REDACTED] and tax returns. The notice stated that total assets cannot exceed \$1600.00 for Title 19 Long Term Care benefit eligibility. (Exhibit 4: W-1348LTC, [REDACTED]/19)
16. On [REDACTED], 2019, the Appellant's Union Savings Bank checking acct # [REDACTED] had an ending balance of \$23,721.96. (Exhibit 12: Union Savings Bank statements)
17. On [REDACTED] 2020, the Department sent the Appellant a W-1348LTC, requesting information needed to establish eligibility. Among the items needed were bank account statements, cash surrender value of AARP life insurance policy, listing agreement for [REDACTED] and tax returns. The notice stated that total assets cannot exceed \$1600.00 for Title 19 Long Term Care benefit eligibility. (Exhibit 5: W-1348LTC, [REDACTED]/2020)
18. On [REDACTED], 2020, the Department sent the Appellant a W-1348LTC, requesting information needed to establish eligibility. Among the items needed were bank account statements, cash surrender value of AARP life insurance policy, the listing agreement for [REDACTED] and tax returns. The notice stated that total

assets cannot exceed \$1600.00 for Title 19 Long Term Care benefit eligibility. (Exhibit 6: W-1348LTC, [REDACTED]/2020)

19. On [REDACTED], 2020, the Appellant's Union Savings Bank checking account # 8961 had an ending balance of \$23,427.83. (Exhibit 12: Union Savings Bank statements)
20. On [REDACTED], 2020, the Department sent the Appellant a W-1348LTC, requesting information needed to establish eligibility. Among the items needed were bank account statements, cash surrender value of AARP life insurance policy, listing agreement for [REDACTED] and tax returns. The notice stated that total assets cannot exceed \$1600.00 for Title 19 Long Term Care benefit eligibility. (Exhibit 7: W-1348LTC, [REDACTED]2020)
21. On [REDACTED] 2020, the Appellant's Union Savings Bank checking account # [REDACTED] had an ending balance of \$26,969.08. (Exhibit 12: Union Savings Bank statements)
22. On [REDACTED], 2020, the Department sent the Appellant a W-1348LTC, requesting information needed to establish eligibility. Among the items needed were bank account statements, cash surrender value of AARP life insurance policy, listing agreement for [REDACTED] and tax returns. The notice stated that total assets cannot exceed \$1600.00 for Title 19 Long Term Care benefit eligibility. (Exhibit 8: W-1348LTC, [REDACTED]/2020)
23. On [REDACTED], 2020, the Appellant's Union Savings Bank checking account # [REDACTED] had an ending balance of \$20,031.80. (Exhibit 12: Union Savings Bank statements)
24. On [REDACTED] 2020, the Appellant's Union Savings Bank checking account # [REDACTED] had and ending balance of \$16,221.48. (Exhibit 12: Union Savings Bank statements)
25. On [REDACTED], 2020, the Appellant's Union Savings Bank checking account # [REDACTED] had an ending balance of \$12,860.08. (Exhibit 12: Union Savings Bank statements)
26. In [REDACTED] 2020, the Appellant reduced her assets to under the \$1600.00 asset limit for Long Term Care Medicaid. (Hearing Record)
27. On [REDACTED], 2020, the Department sent the Appellant a W-1348LTC, requesting information needed to establish eligibility. Among the items needed were bank account statements, cash surrender value of AARP life insurance policy, listing agreement for [REDACTED] and tax returns. The notice stated that total assets cannot exceed \$1600.00 for Title 19 Long Term Care benefit eligibility. (Exhibit 9: W-1348LTC [REDACTED]2020)
28. On [REDACTED] 2020, the Department sent the Appellant a W-1348LTC, requesting information needed to establish eligibility. Among the items needed were bank account statements and tax returns. The notice stated that total assets cannot

exceed \$1600.00 for Title 19 Long Term Care benefit eligibility. (Exhibit 10: W-1348LTC, ■■■/2020)

29. The asset limit for Long Term Care Medicaid eligibility is \$1600.00. (Department's Testimony)
30. On ■■■■■3, 2020, the Department sent the Appellant a Notice of Action granting Long Term Care Medicaid benefits effective ■■■■■ 2020. (Exhibit 11: Notice of Action, ■■■/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 ■■■■■, 2021. However, the hearing, which was originally scheduled for ■■■■■, 2020, was rescheduled for ■■■■■ 2021, at the request of the Appellant, which caused a 43 - day delay. Because this 43-day delay resulted from the Appellant's request, this decision is not due until ■■■■■, 2021. However, due to the public health emergency, the Governor's executive order 7M, dated ■■■■■ 2020, extends the time frame a decision must be reached from 90 days of a request for a fair hearing to 120 days. Therefore, this decision is due not later than ■■■■■ 2021 and is therefore timely. (Hearing Record)

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. "An authorized representative must be designated in writing by one of the following individuals: 2. In the AABD and MA programs, by the applicant, or if the applicant is a child, incompetent or incapacitated, by the parent, custodian or court appointed fiduciary." UPM 1525.05 (C) (2)
4. "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)
5. "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)

6. “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.

The Department correctly determined that the Appellant's Union Savings Bank accounts are assets and were available to the Appellant through her conservator.

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 that the cash surrender value of the Appellant's AARP Life Insurance Policy is counted toward the asset limit as the face value of \$10,000 is over 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 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] 2019 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] 2019 through [REDACTED] 2020.

On [REDACTED] 2020, the Department correctly granted the Appellant's application for Long Term Care Medicaid effective [REDACTED] 2020, the

month that the Appellant's assets were reduced below the allowable limit of \$1600.00.

DECISION

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


Scott Zuckerman
Hearing Officer

Cc: Carol Sue Shannon, Operations Manager, DSS, Danbury Regional Office
Megan Finlayson, 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.

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.