

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

██████████, 2022
Signature Confirmation

Case ID#: ██████████
Client ID #: ██████████
Hearing ID#: 195190

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████, 2022, the Department of Social Services (the "Department") sent ██████████
██████████ ("the Appellant"), a Notice of Action ("NOA") granting her ██████████ 2022,
application Long Term Care ("LTC") Medicaid benefits effective ██████████ 2022.

On ██████████, 2022, the Appellant requested an administrative hearing to contest the
effective date of such benefits.

On ██████████, 2022, the Office of Legal Counsel, Regulations, and Administrative Hearings
("OLCRAH") issued a notice scheduling the administrative hearing for ██████████, 2022.

On ██████████ 2022, 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, ██████████
██████████

Ellen Croll-Wissner, Department's Representative
Scott Zuckerman, Hearing Officer

The hearing record remained open through for the Department to submit additional information. The Department submitted the additional information. On [REDACTED] 2022, the hearing record closed.

STATEMENT OF THE ISSUE

The issue is whether the Department correctly granted the Appellant LTC Medicaid benefits effective [REDACTED] 2022.

FINDINGS OF FACT

1. On [REDACTED] 2020, the Appellant entered the [REDACTED] (the "facility"). (Exhibit 1: W-1LTC, Long-term care/Waiver Application, [REDACTED], 2022)
2. On [REDACTED], 2021, the Appellant applied for LTC Medicaid benefits. (Hearing Record)
3. On [REDACTED], 2021, the Appellant's [REDACTED] account acct ending in [REDACTED] had a balance of \$6,506.91. (Exhibit 4: [REDACTED] account Transaction statement and Bank statement dated [REDACTED], 2021)
4. On [REDACTED], 2021, the Appellant's [REDACTED] account # [REDACTED] had an ending balance of \$6,506.96. (Exhibit 4: [REDACTED] transaction statement)
5. On [REDACTED], 2021, the Appellant's [REDACTED] account # [REDACTED] had an ending balance of \$6,507.01. (Exhibit 4: [REDACTED] transaction statement)
6. On [REDACTED], 2021, the Appellant's [REDACTED] account # [REDACTED] had an ending balance of \$6,507.07. (Exhibit 6: IMPACT – AVS Results – Liquid assets details)
7. On [REDACTED] 2021, the Appellant's [REDACTED] account # [REDACTED] had an ending balance of \$6,507.12. (Exhibit 6: IMPACT – AVS Results – Liquid assets details)
8. On [REDACTED] 2021, the Appellant's [REDACTED] account # [REDACTED] had an ending balance of \$6,507.12. (Exhibit 6: IMPACT – AVS Results – Liquid assets details)
9. In [REDACTED] 2021, the Appellant's [REDACTED] account # [REDACTED] had a balance of \$6,507.23. (Exhibit 6: IMPACT – AVS Results – Liquid assets details)
10. In [REDACTED] 2021, the Appellant's [REDACTED] account # [REDACTED] had a balance of \$6,507.23. (Exhibit 6: IMPACT – AVS Results – Liquid assets details)
11. In [REDACTED] 2021, the Appellant's [REDACTED] account # [REDACTED] had a balance of \$6,507.23. (Exhibit 6: IMPACT – AVS Results – Liquid assets details)

12. On [REDACTED], 2021, the Department denied the Appellant's [REDACTED], 2021, application due to excess assets. (Exhibit 7: Notice of Action [REDACTED] 2021)
13. There is no evidence that the Department sent the Appellant the denial notice. The appellant did not receive the [REDACTED] 2021 denial notice. (Hearing Record)
14. In [REDACTED] 2021, the Appellant's [REDACTED] account # [REDACTED] had a balance of \$6,507.39. (Exhibit 6: IMPACT – AVS Results – Liquid assets details)
15. In [REDACTED] 2021, the Appellant's [REDACTED] account # [REDACTED] had a balance of \$6,507.39. (Exhibit 6: IMPACT – AVS Results – Liquid assets details)
16. In [REDACTED] 2022, the Appellant's [REDACTED] account # [REDACTED] was spent down to a balance of \$1040.60. (Hearing Summary and Exhibit 6: IMPACT – AVS Results – Liquid assets details)
17. The asset limit for Long Term Care Medicaid eligibility is \$1600.00. (Department's Testimony)
18. On [REDACTED], 2022, the Appellant applied for Long Term Care Medicaid benefits. (Hearing Summary, Exhibit 1: W-1LTC, Long-term Care/Waiver Application, [REDACTED] 2022)
19. On [REDACTED], 2022, the Department mailed the Appellant a W-1348LTC, Verification We Need form. The Department requested the Appellant provide proof that \$9,000.00 in bank account ending in # [REDACTED] belonged to the Appellant's daughter. (Hearing Summary and Exhibit 2: W-1348LTC, [REDACTED] 2022)
20. On [REDACTED] 2022, the Department received probate documents and sent the Appellant a W-1348 requesting proof that \$9000.00 in account # [REDACTED] belonged to the Appellant's daughter. (Exhibit 5: Case notes)
21. On [REDACTED], 2022, the Appellant provided probate documents that the \$9000.00 in account ending [REDACTED] did not belong to the Appellant. (Exhibit 5)
22. On [REDACTED], 2022, the Department sent the Appellant a Notice of Action approving the Appellant's [REDACTED], 2022, application for Long Term Care Facility Medicaid effective [REDACTED] 2022. (Exhibit 3: Notice of Action, [REDACTED], 2022)
23. The issuance of this decision is timely under Connecticut General Statutes 17b-61(a), which requires that the Department issue a decision within 90 days of the request for an administrative hearing. The Appellant requested an administrative hearing on [REDACTED] 2022; therefore, this decision is due no later than [REDACTED], 2022. However, the Appellant requested the hearing record remain opened through [REDACTED] 2022, for the submission of additional evidence which caused a 7 – day

delay. Because this 7-day delay resulted from the Appellant's request, this decision is not due until [REDACTED] 2022, and is therefore timely. (Hearing Record)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes 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 ("UPM") 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." UPM § 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.

The Department correctly determined that the Appellant's [REDACTED] account ending in [REDACTED] is an asset and was available to the Appellant.

6. 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.

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] 2021 through [REDACTED] 2021.

- 7. "In the Medicaid program, the asset limit for one person is \$1,600.00." UPM 4005.10 (A)

“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] 2021 through [REDACTED] 2021.

On [REDACTED] [REDACTED], 2022, the Department correctly granted the Appellant’s application for Long Term Care Medicaid effective [REDACTED] 2022, the month that the Appellant’s assets were reduced below the allowable limit of \$1600.00.

DISCUSSION

The Appellant’s counsel argued that the Department failed to send the Appellant a notice of denial for the application dated [REDACTED] 2021 and denied in [REDACTED] 2021. The Department’s records reflect that the notice of denial was local printed and may not have been sent out. The Appellant claims non-receipt of the denial notice.

This hearing addresses the assets for the months of [REDACTED] 2021 to [REDACTED] 2022. The assets were not reduced until [REDACTED] 2022; therefore, the effective date of the [REDACTED] 2022 application is correct.

This hearing does not address any other eligibility factors that may be related to the previous application from [REDACTED], 2021, and denial in [REDACTED] 2021.

DECISION

The Appellant’s appeal is **DENIED**.

Scott Zuckerman
Scott Zuckerman
Hearing Office

Cc: Rachel Anderson, Operations Manager, DSS, New Haven Regional Office
Mathew Kalarickal, Operations Manager, DSS, New Haven Regional Office
Ralph Filek, Operations Manager, DSS, New Haven Regional Office
Ellen Croll - Wissner, Fair Hearing Liaison, DSS, 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 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.