

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

██████████ 2015  
Signature Confirmation

CLIENT ID #: ██████████  
Hearing ID #: 732441

NOTICE OF DECISION

PARTY

██████████  
C/O ██████████  
██████████  
██████████

PROCEDURAL BACKGROUND

On ██████████ 2015, the Department of Social Services (“Department”) sent ██████████ (the “Appellant”) a Notice of Action (“Notice”) denying her Medicaid application for Long Term Care Medical benefits.

On ██████████ 2015, the Appellant requested an administrative hearing to contest the Department’s decision to deny such benefits.

On ██████████ 2015, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a Notice scheduling the administrative hearing for ██████████ 2015.

On ██████████ 2015, in accordance with sections 17b-60, 17b-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:

██████████ Appellant’s Conservator  
Amelia Duarte, Department’s Representative  
Thomas Monahan, Hearing Officer

The hearing record remained open for the submission of additional evidence. On ██████████ 2016, the hearing record closed.

## **STATEMENT OF THE ISSUE**

The issue to be decided is whether the Department's decision to deny the Appellant's Long Term Care Medical Assistance application was correct.

## **FINDING OF FACTS**

1. On [REDACTED] 2015, the Appellant applied for Long Term Care Medicaid Assistance. (Exhibit 1: Application form, [REDACTED]/15)
2. The Appellant listed herself on the application. (Ex. 1: Application form, [REDACTED] 15)
3. At the time of the Application the Appellant was at Waterbury Hospital and expected to be discharged to a convalescent home. (Conservator's testimony)
4. The Appellant is married and her date of birth is [REDACTED] 1959. (Ex. 1: Application form, [REDACTED]/15)
5. The Appellant's spouse filed for divorce on [REDACTED] 2015. (Conservator's testimony)
6. Prior to admittance to the hospital the Appellant and her spouse lived in assisted living in [REDACTED], CT. (Ex. 1: Application form, [REDACTED]/15, Conservator's testimony)
7. The Appellant was discharged from the hospital and admitted to the [REDACTED] [REDACTED], a state run facility. (Hearing record)
8. There are no immediate plans to discharge the Appellant to a convalescent home. (Conservator's testimony)
9. The Appellant receives monthly Social Security benefits of \$801.20. (Ex. 2: Bank statements)
10. The Appellant receives a monthly pension of \$837.92. (Ex. 2: Bank statements)
11. On [REDACTED] 2015, the Appellant had a TD Bank checking account with a balance of \$3,738.07. (Ex. 2: Bank statements)
12. On [REDACTED] 2015, the Appellant and her spouse had a TD Bank checking account with a balance of \$23,143.45. (Ex. 2: Bank statements)
13. On [REDACTED] 2015, the Appellant and her spouse had a TD Bank savings account with a balance of \$1,001.52. (Ex. 2: Bank statements)

14. On [REDACTED] 2015, the department sent the Appellant's conservator a Verification We Need form requesting verification she reduce her assets to within the Department's asset limit. (Ex. 3: Case narrative)
15. On [REDACTED] 2015, the Department denied the Appellant's application because she was not living in a skilled nursing facility. (Ex. 5: Denial notice, [REDACTED]/16)
17. The Department rescreened the Appellant's Medicaid application and determined eligibility under the Community Medicaid for the Aged, Blind and Disabled program. (Hearing record)

### **CONCLUSIONS OF LAW**

1. Section 17b-2 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the Medicaid program.
2. Uniform Policy Manual ("UPM") § 2540.10(A) provides that in order to qualify for medical assistance the individual must meet the conditions of one coverage group.
3. Generally, individuals qualify as categorically needy if: their income and assets are within limits of the AFDC or AABD programs: or their categorical eligibility is protected by statute. UPM § 2540.01(B)
4. Generally, individuals qualify for medical assistance as medically needy if: their income or assets exceed the limits of the AFDC or AABD programs; and their assets are within the medically needy asset limit. UPM § 2540.01(C)
5. Unless otherwise stated in particular coverage group requirements, all individuals must meet the medical assistance technical and procedural requirements to be eligible for Medicaid. UPM § 2540.01(D)
6. The Medicaid coverage group for a Long Term Care Facility ("LTCF") includes residents of a LTCF who meet the categorical requirements of age, blindness or disability, and reside in the LTCF for at least 30 days and have income below a special income level. UPM 2540.88(A)
7. Regulation provides that residents of certain institutions qualify for AABD or MA if they are otherwise eligible. Residents of other institutions are ineligible.
  - A. Eligible Institutionalized Residents

1. Residents of the following institutions meet the eligibility requirement regarding institutional status for AABD or MA:
  - a. general hospitals;
  - b. long term care facilities which are not tuberculosis or mental disease facilities including:
    - (1) skilled nursing facilities;
    - (2) intermediate care facilities;
    - (3) institutions for the mentally retarded.
  - c. publicly operated commercial residences of no more than 16 residents;
  - d. child care institutions for children under the following circumstances:
    - (1) the child receives Title IV-E foster care payments; and
    - (2) the institution is operated by a private non-profit agency or a public child care institution that accommodates no more than twenty-five children and is approved or licensed by the Department of Children and Families or the Department of Public Health.
  - e. educational or vocational institutions.
  - f. other public institutions, other than mental disease facilities and tuberculosis facilities, where the resident is residing voluntarily.
2. Residents of the following institutions meet the institutional status requirement for AABD or MA if they meet specific age requirements:
  - a. tuberculosis facilities if the resident is age 65 or older;
  - b. mental disease facilities if the resident is:
    - (1) age 65 or over; or

- (2) under age 21; or
  - (3) between ages 21 and 22 only if services were received on the 21st birthday and continue to be received after the 21st birthday. The institutional status requirement continues to be met until the earliest of the following:
    - a. The date the services end
    - b. The 22<sup>nd</sup> birthday.
8. The Appellant is 56 years old residing in a mental health facility.
9. The Appellant does not meet the requirements of an eligible institutionalized resident.
10. The Department correctly determined that the Appellant is not eligible for LTCF Medicaid benefits.

### **DISCUSSION**

The Department correctly denied the LTCF application as the Appellant does not qualify for the LTCF coverage group. The initial intent was for the Appellant to be discharged from the hospital to a skilled nursing convalescent home but that did not happen. The Department rescreened the application as Community Medicaid for the Aged, Blind and Disabled (“ MAABD”) program. A separate decision was issued on the Appellant’s eligibility for MAABD in the community.

### **DECISION**

The Appellant’s appeal is **DENIED**.

*Thomas Monahan*  
Thomas Monahan  
Hearing Officer

C: Tyler Nardine, Operations Manager, Middletown Regional Office  
Amelia Duarte, Hearing Liaison

### **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.