

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

██████████ 2017  
Signature Confirmation

CLIENT No # ██████████  
Request # 821772

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2017, the Department of Social Services - (“the Department”) sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) denying her application for Title 19 Husky C, Medicaid for the Aged, Blind or Disabled because her assets exceeded the Medicaid program limits.

On ██████████ 2017, the Appellant, requested an administrative hearing to contest the denial of the Long Term Care Medicaid benefits.

On ██████████ 2017, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2017.

On ██████████ 2017, in accordance with sections 17b-60, 17-61 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 for ██████████  
██████████ Spouse of ██████████  
Mario Ponzio, Department’s Representative  
Almelinda McLeod, Hearing Officer

The Appellant , ██████████ was not present as she is deceased.

## STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly denied the Appellant's application for the Husky C Medicaid for Aged, Blind or Disabled program due to excess assets.

## FINDINGS OF FACT

1. On [REDACTED] 2016, the Appellant was admitted to St. Francis Hospital. (Hearing Summary).
2. On [REDACTED] 2016, the Appellant was admitted into Parkway Pavilion skilled nursing facility. (Exhibit 2, Ascend Data)
3. On [REDACTED] 2017, the Department received an application for Title 19 for Long Term Care Medicaid assistance. (Exhibit 1, W-1 LTC page 3)
4. The Appellant is married to [REDACTED] who receives Social security income of \$1616.00 per month. (Appellant's testimony and Exhibit 6, Bank of America bank statement)
5. The Appellant received a monthly pension of \$516.21 from New York Life and Social Security income of \$1061.00 per month. ( Exhibit 6, Bank of America bank statement)
6. As of [REDACTED] 2016, the date of institutionalization, the Appellant and her spouse owned Bank of America checking account # [REDACTED] Fidelity account # xx [REDACTED] Virtus # xx [REDACTED] ASA Union # [REDACTED] Romney Union # [REDACTED] and three life insurance policies – Royal Neighbor # [REDACTED] Mass Mutual # [REDACTED] and Mass Mutual # [REDACTED]. The total combined assets in these accounts equaled \$41,043.23. (Exhibit 5, Spousal Assessment Worksheet, Exhibit 6 & 14, Bank of America xx [REDACTED], Exhibit 7 & 15, ASA Federal Credit Union xx [REDACTED], Exhibit 8 & 16, Virtus xx [REDACTED], Exhibit 9 & 17- Fidelity XX [REDACTED], Exhibit 10 & 18- Romney Federal Credit Union xx [REDACTED], Exhibit 11- Royal Neighbors of America XX [REDACTED], Exhibit 12, Mass Mutual XX [REDACTED], Exhibit 13, Mass Mutual XX [REDACTED])
7. On [REDACTED] 2017, the Department determined that half of the total combined assets were \$20,521.62. (Exhibit 4, assessment and Notification of Spousal Assets.)
8. The minimum allowed for the Community Spousal Assessment limit is \$23,844.00. ( Exhibit 5, Spousal Assessment Worksheet)

9. On [REDACTED] 2017, the Department issued a notice to the Appellant stating that her total allowable assets was \$25,444.00 which consisted of \$1600.00 Medicaid asset limit for the Appellant plus her spouses share of \$23,844.00. (Exhibit 4, W-1SA-N, Spousal Assessment Notification Results)
10. On [REDACTED] 2017, the Department issued a W-1348, Verification We Need Form requesting Bank of America statement for December 2012, and verification of how the reduced funds from Fidelity was spent. The due date for this information was [REDACTED] 2017. ( Exhibit 3, Case narrative)
11. On [REDACTED] 2017, the Appellant provided verification that partial funds were spent on modifying the house for her parents and making it handicapped accessible for them. The Appellant submitted Bank statements on another account number xx [REDACTED]. ( Appellant's testimony and Exhibit 3, Case narrative)
12. On [REDACTED] 2017, the Department issued a W-1348, Verification We Need Form requesting look back on Bank of America account number xx [REDACTED] and the previous Bank statement account number xx [REDACTED] requested for [REDACTED] 2012. The due date for this information was [REDACTED] 2017. ( Exhibit 3, Case narrative)
13. On [REDACTED] 2017, the Appellant submitted most of the requested verification. ( Exhibit 3, Case narrative)
14. On [REDACTED] [REDACTED] 2017, the Department issued a W-1348 requesting verification of assets reductions. The due date for this information is [REDACTED] [REDACTED] 2017. (Exhibit 3, Case narrative)
15. On [REDACTED] 2017, the Appellant passed away. ( Hearing summary)
16. On [REDACTED] 2017, the Department received updated statements showing assets through the end of [REDACTED] 2017, however determined by the information submitted the Appellant was still over assets. The total of all assets including the reduction of income for the month was \$28,214.40. ( Exhibit 3, Case narrative)
17. On [REDACTED] 2017, the Department denied the Appellant's application for Medicaid assistance with long term care benefits because she was over the asset limit.

## **CONCLUSIONS OF LAW**

1. Section 17b-2 and § 17b-260 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”) § 4005.05(B)(1) provides that 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 assistance unit.
3. UPM § 4030 provides that the Department evaluates all types of assets available to the assistance unit when determining the unit’s eligibility for benefits.
4. Connecticut General Statutes 17b-261(c) provides 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. If the terms of a trust provide for the support of an applicant, the refusal of a trustee to make a distribution from the trust does not render the trust an unavailable asset. Notwithstanding the provisions of this subsection, the availability of funds in a trust or similar instrument funded in whole or in part by the applicant or the applicant’s spouse shall be determined pursuant to the Omnibus Budget Reconciliation Act of 1993, 42USC 1396p.
5. UPM § 4005.05(B)(2) provides that 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.
6. UPM § 4005.05(D) provides that an assistance unit is not eligible for benefits under a particular program if the unit’s equity in counted assets exceeds the asset limit for the particular program.
7. UPM § 4005.10 (A) (2) (a) provides that the asset limit for Medicaid for a needs group of one is \$1,600.
8. UPM § 4005.15(A)(2) provides that at the time of application, the assistance unit is ineligible for assistance until the first day it reduces its equity in counted assets to within the particular program asset limit.

9. **The Department correctly determined that the checking accounts with Bank of America, ASA Federal Credit Union, Romney Federal Credit Union, Fidelity Investments & Virtus accounts and Life Insurance policies with Royal Neighbors of America and Mass Mutual were owned by the Appellant.**
10. **The Department correctly determined that the accounts with Bank of American, Fidelity, Virtus, ASA Union, Romney Federal Credit Union, Royal Neighbors of America and Mass Mutual were accessible assets for the Appellant.**
11. UPM § 4030.05(B) provides 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.
12. UPM § 4030.05(C) provides that money which is received during a month and deposited into an account during the month is not considered an asset for that month, unless the sources of the money is; an income tax refund; or cash received upon the transfer or sale of property; or a security deposit returned by the landlord.
13. **The Department correctly determined that the Appellant's Social Security payments and pension payments deposited into her checking accounts were not counted as assets during the month deposited.**
14. UPM § 4005.15(B) (2) (b) provides in part that if the assistance unit does not reduce its excess to an allowable level by the end of the month the excess first occurs, the unit is ineligible as of the first day of the following month and remains ineligible until the first day of the month in which the unit properly reduces its assets to an allowable level.
15. **The Department correctly determined that the Appellant's assets exceeded the \$1,600.00 asset limit as of the end of [REDACTED] 2017; the month when the Appellant expired.**
16. **The Department correctly determined that the Appellant was ineligible for Medicaid for the period of [REDACTED] 2016 through [REDACTED] 2017.**
17. **The Department correctly denied the Appellant's Long Term Care Application from [REDACTED] 2016 through [REDACTED] 2017 because the Appellant's assets exceeded the Medicaid asset limit.**

**DISCUSSION**

Based on the evidence and testimony presented, I have determined that the Department correctly denied the Appellant's long term care application because the Appellant's assets exceeded the Medicaid asset limit of \$1600.00.

The Appellant testified that the Appellant's money was reduced to pay for home modifications, however the contractor was not yet done with the modifications to the home and she determined she was not going to pay for work that was not yet completed. Although, it is quite understandable not to pay for services you have not yet received, the fact remains that the Appellants assets exceeded the Medicaid program asset limit as of the end of the month of her date of death, [REDACTED] 2017.

The Department correctly determined that the Appellant was not eligible for long term care Medicaid benefits.

**DECISION**

The Appellant's appeal is DENIED.

  
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Almelinda McLeod  
Hearing Officer

CC: Elizabeth Thomas, SSOM, Manchester Regional Office  
Mario Ponzio, Fair Hearing Liaison, 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 Legal Counsel, Regulations, and Administrative Hearings, 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, 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 his 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.