

STATE OF CONNECTICUT  
DEPARTMENT OF SOCIAL SERVICES  
OFFICE OF LEGAL COUNSEL, REGULATION AND ADMINISTRATIVE HEARINGS  
55 FARMINGTON AVENUE  
HARTFORD, CONNECTICUT 06105-3730

██████████, 2018  
Signature Confirmation

██████████  
██████████

NOTICE OF DECISION

PARTY

██████████  
██████████  
██████████

PROCEDURAL BACKGROUND

On ██████████, 2017, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice to Inform Medicaid Recipients of a Lien being place on her home property at ██████████ Connecticut.

On ██████████, 2017, ██████████, the Appellant's Power of Attorney ("POA") requested a hearing to contest the Department's decision.

On ██████████, 2017, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████ 2018.

The Appellant's POA requested a reschedule of the administrative hearing. On ██████████, 2018, OLCRAH issued a notice rescheduling the administrative hearing for ██████████ 2018.

On ██████████, 2018, 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 POA  
Trish Gethers, Department's Representative  
Carla Hardy, Hearing Officer

The hearing record remained open for the submission of additional evidence. On [REDACTED] 2018, the hearing record was closed.

**STATEMENT OF ISSUES**

The issue to be decided is whether the Department's action to issue a notice of intent to place a lien on property located at [REDACTED] [REDACTED] was correct.

**FINDING OF FACTS**

1. On [REDACTED] 2017, the Appellant was admitted to [REDACTED] [REDACTED] for a short-term stay. (Exhibit 1: ASCEND Verification of Nursing Home Placement; Hearing Summary)
2. On [REDACTED], 2017, the Appellant's level of care was updated to a long-term stay. (Hearing Summary)
3. The Appellant's daughter, [REDACTED] is the Appellant's POA. (Hearing Record)
4. The Appellant owns home property located at [REDACTED] [REDACTED] Testimony)
5. On [REDACTED], 2017, the Department sent the Appellant a Notice to Inform Medicaid Residents of a Lien. (Exhibit 5: W-1662, Notice to Inform Medicaid Recipients of a Lien, [REDACTED] 18)
6. On [REDACTED], 2017, the Department granted the Appellant Long Term Care Medicaid benefits and MSP-Qualified Medicare Beneficiaries ("QMB") with an effective date of [REDACTED] 2017. (Exhibit 3: NOA, [REDACTED] 17)
7. The Appellant has not returned to her home property since she was admitted to [REDACTED]. (Hearing Record)

**CONCLUSION 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. Sec. 17b-79 of the Connecticut General Statutes states that No person shall be deemed ineligible to receive an award under the state supplement program, medical assistance program, temporary family assistance program, state-

administered general assistance program or supplemental nutrition assistance program for himself or herself or for any person for whose support he or she is liable by reason of having an interest in real property, maintained as his or her home, provided the equity in such property shall not exceed the limits established by the commissioner. The commissioner may place a lien against any property to secure the claim of the state for all amounts which it has paid or may thereafter pay to such person or in such person's behalf under any such program, or to or on behalf of any person for whose support he or she is liable, except for property maintained as a home in aid to families of dependent children cases, in which case such lien shall secure the state only for that portion of the assistance grant awarded for amortization of a mortgage or other encumbrance beginning with the fifth month after the original grant for principal payment on any such encumbrance is made, and each succeeding month of such grant thereafter. The claim of the state shall be secured by filing a certificate in the land records of the town or towns in which any such real estate is situated, describing such real estate. Any such lien may, at any time during which the amount secured by such lien remains unpaid, be foreclosed in an action brought in a court of competent jurisdiction by the commissioner on behalf of the state. Any real estate to which title has been taken by foreclosure under this section, or which has been conveyed to the state in lieu of foreclosure, may be sold, transferred or conveyed for the state by the commissioner with the approval of the Attorney General, and the commissioner may, in the name of the state, execute deeds for such purpose. Such lien shall be released by the commissioner upon payment of the amount secured by such lien, or an amount equal to the value of the beneficiary's interest in such property if the value of such interest is less than the amount secured by such lien, at the commissioner's discretion, and with the advice and consent of the Attorney General, upon a compromise of the amount due to the state. At the discretion of the commissioner, the beneficiary, or, in the case of a husband and wife living together, the survivor of them, as long as he or she lives, or a dependent child or children, may be permitted to occupy such real property.

3. Sec. 17b-93 of the Connecticut General Statutes states that a beneficiary of aid under the state supplement program, medical assistance program, aid to families with dependent children program, temporary family assistance program or state-administered general assistance program has or acquires property of any kind or interest in any property, estate or claim of any kind, except moneys received for the replacement of real or personal property, the state of Connecticut shall have a claim subject to subsections (b) and (c) of this section, which shall have priority over all other unsecured claims and unrecorded encumbrances, against such beneficiary for the full amount paid, subject to the provisions of section 17b-94, to him or on his behalf under said programs; and, in addition thereto, the parents of an aid to dependent children beneficiary, a state-administered general assistance beneficiary or a temporary family assistance beneficiary shall be liable to repay, subject to the provisions of said section 17b-94, to the state the full amount of any such aid paid to or on behalf of either parent, his spouse, and his child or children. The state of Connecticut shall have a lien against property of any kind or interest

in any property, estate or claim of any kind of the parents of an aid to dependent children beneficiary, in addition and not in substitution of its claim, for amounts owing under any order for support of any court or any family support magistrate, including any arrearage under such order, provided household goods and other personal property identified in section 52-352b, real property pursuant to section 17b-79, as long as such property is used as a home for the beneficiary and money received for the replacement of real or personal property, shall be exempt from such lien.

4. Uniform Policy 4030.20 (D) provides for treatment of Home property.
  1. If the individual owns home property and enters a long-term care facility, the home property retains its status as an excluded asset for as long as any of the following persons is lawfully residing in the home:
    - a. the individual's spouse; or
    - b. the individual's child who is under age 21 or blind or disabled; or
    - c. the individual's sibling if the sibling:
      - (1) is joint owner of the home; and
      - (2) was residing in the home for at least one year immediately before the individual entered the long-term care facility.
5. The Department correctly determined the Appellant's home property is not an excluded asset as none of the criteria for exclusion was met.
6. Section 7500.01 of the Uniform Policy Manual ("UPM") provides in part the following definitions:

Assignment: An assignment is the act of transferring one's equitable interest in an asset or a claim to another person or an organization.

Lawfully residing: Lawfully residing is actually residing at a certain address and publically affirming this address as one's residence to the local Post Office, Voters' Registration Office, Immigration Office, or other governmental agencies.

Lien: A lien is a legal claim against property as security for a debt.

Recovery: Recovery is the process by which the Department collects certain income or assets of an individual who either received benefits from the Department, or who was legally liable for the support of a person when that person was receiving benefits from the Department.

7. UPM § 7510 provide that in certain circumstances, the Department places a lien against the real property of an assistance unit and the real property of a legally liable relative in the Aid to Families with Dependent Children, State Supplement, and Medical Assistance programs. This chapter describes the circumstances under which the Department places a lien against real property and also describes how the amount of the Department's lien is computed.
8. UPM § 7510.15 (B)(1) provides the Department places a lien against all of the individual's real property, except as noted below, because of Medicaid claims paid or to be paid if the individual is an inpatient of a long-term care facility and cannot reasonably be expected to be discharged and return home.
9. There was no medical indication the Appellant had an expectation to return to her home.
10. The Appellant has not been in her home since her admittance to [REDACTED].
11. UPM § 7510.15 (B)(2) provides the Department does not place a lien on real property that was used as the individual's primary residence prior to entering the long term care facility if any of the following persons is lawfully residing in the home: a. the individual's spouse; b. the individual's child who is under age 21 or blind or disabled; c. the individual's sibling if the sibling: (1) is joint owner of the home; and (2) was residing in the home for at least one year immediately before the individual entered the long-term care facility.
12. The Department correctly determined that the Appellant's home property is subject to the placement of a lien as none of the exclusionary criteria was met.
13. UPM § 7510.15 (E) provides the amount of the Department's lien is equal to: 1. the amount of Medicaid benefits incorrectly paid on behalf of the individual; plus 2. the amount of any Medicaid benefits the Department paid on behalf of an institutionalized individual, as described in UPM § 7510.15 (B).

### **DECISION**

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

  
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Carla Hardy  
Hearing Officer

Pc: Stephen Markowski, DSS, Quality Assurance  
Odette Olmeda, DSS, Fraud and Recoveries  
Keith Gatling, DSS, Resource Supervisor  
Trish Gethers, DSS, Eligibility Services Specialist

### **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, 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.