

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

██████████ 2014
Signature Confirmation

Client ID # ██████████
Request # 649080

NOTICE OF DECISION

PARTY

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██████████
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PROCEDURAL BACKGROUND

On ██████████ 2014, the Department of Social Services (the "Department") sent ██████████ the Appellant's Authorized Representative ("AREP"), a Notice of Action ("NOA") denying ██████████ (the "Appellant") Long Term Care ("LTC") benefits for the months of ██████████ 2014 through ██████████ 2014.

On ██████████ 2014, the Appellant's AREP requested an administrative hearing to contest the denial of the LTC Medicaid benefits as determined by the Department.

On ██████████ 2014, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████ 2014.

On ██████████ 2014, 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's AREP
Connie Estanislau, Department's Representative
Christopher Turner, Hearing Officer

The Hearing record was left open for the submission of additional information. On [REDACTED] 2014, the record closed.

STATEMENT OF THE ISSUE

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

FINDINGS OF FACT

1. On [REDACTED] [REDACTED] 2014, the Appellant entered a nursing home. (Exhibit 10: Department's narrative)
2. On [REDACTED] 2014, the Department received an application (W-1LTC) for Medical assistance. (Exhibit 1: W-1 LTC dated [REDACTED]/14; Exhibit 10: Page 1 of 8; Hearing summary)
3. The Appellant is widowed. (Exhibit 10: Page 1 of 8)
4. The Appellant's daughter, [REDACTED], is the Appellant's AREP. (Exhibit 10: Page 1 of 8; Hearing summary, Appellant's testimony)
5. The Appellant's AREP is requesting a [REDACTED] 2014 start date for nursing home coverage. (Testimony)
6. The Appellant has a life insurance policy from John Hancock with a cash value of \$4,500.00. (Exhibit 1; Exhibit 4: Letter from John Hancock dated [REDACTED] 12)
7. The Appellant's AREP is requesting a hardship exemption concerning the value of the Appellant's John Hancock Life Insurance policy based on the death of her brother, the Appellant's primary caretaker and financial advisor. (Appellant's testimony)
8. On [REDACTED] 2014, the Department screened the Appellant's LTC application. (Exhibit 10: Page 1 of 8)
9. On [REDACTED] 2014, the Department mailed the Appellant's AREP a "We Need Verification from You" form ("W-1348LTC") requesting verifications needed to establish eligibility. Among the items requested were copies of statements from Bank of America from [REDACTED]/14 to present, copies of TD Bank statements from 2009, [REDACTED]/2010, [REDACTED] 2011 and [REDACTED] 12 through present, Nutmeg Credit Union statements from 2009, [REDACTED]/2010, [REDACTED]/2011 and [REDACTED]/12 through present. Also requested were TD Bank IRA balance as well as statements from 2009, [REDACTED]/2010, [REDACTED]/2011 and [REDACTED]/12 through present, John Hancock Life Insurance face value and cash value, Burial Contract paperwork. (Exhibit 2: W-1348LTC dated [REDACTED]/14)

10. On [REDACTED], 2014, the Department received verifications for Bank of America, TD Bank, Nutmeg Credit Union, Farmington Bank, and Medical insurance premium (Exhibit 10: Page 3 of 10)
11. On [REDACTED] 2014, the Appellant's AREP contacted the Department to inquire on the status of the Appellant's application. (Exhibit 10: Page 5 of 10)
12. On [REDACTED] 2014, the Appellant's AREP contacted the Department to inquire on the status of the Appellant's application and to report she discovered stocks not previously disclosed. The Appellant's AREP stated she would sell the stocks and will pay Avery Heights the proceeds. (Exhibit 10: Page 5 of 10)
13. On [REDACTED] 2014, the Department received a fax from the Appellant. (Exhibit 10: Page 5 of 10)
14. On [REDACTED] 2014, the Department confirmed with the Appellant's AREP that the fax was received. (Exhibit 10: Page 5 of 10)
15. On [REDACTED] 2014, the Department's representative reviewed the Appellant's application. (Exhibit 10: Page 5 of 10)
16. On [REDACTED] [REDACTED] 2014, the Department's representative spoke with the Appellant's AREP concerning the status of the Appellant's application as well as how the value of the Appellant's life insurance policy affects the Appellant's application. (Exhibit 10: Page 6 of 8)
17. On [REDACTED] [REDACTED] 2014, the Department mailed the Appellant's AREP a W-1348LTC requesting verification the John Hancock Life Insurance policy has been surrendered. The request noted the asset limit for Medicaid is \$1,600.00. (Exhibit 3: W-1348LTC dated [REDACTED]/14)
18. On [REDACTED] 2014, the Appellant's AREP converted the proceeds of the John Hancock Life Insurance Policy to an official check for \$4,316.01 from TD Bank payable to Avery Heights. (Exhibit 5: TD Bank check dated [REDACTED]/14)
19. On [REDACTED] 2014, the Department received verification, via fax, that the Appellant's life insurance policy was cashed [REDACTED]/14 and surrendered to the Appellant's nursing home on this day. (Exhibit 5: Copy of check dated [REDACTED]/14; Exhibit 6: Receipt from Avery Heights; Exhibit 10: Page 6 of 8)
20. On [REDACTED] 2014, the Department granted the Appellant's application for L01 coverage effective [REDACTED] 2014 and denied the months of [REDACTED] 2014 through [REDACTED] 2014 due to assets in excess of \$1,600.00. (Exhibit 10: Page 6 of 8; Exhibit 11: Notice content dated [REDACTED]/14)

CONCLUSIONS 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. Uniform Policy Manual ("UPM") Section 4030 provides that the Department evaluate all types of assets available to the assistance unit when determining the unit's eligibility for benefits.
3. 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, 42 USC 1396p.
4. UPM § 4005.05 (A) 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 unit.
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 provides that the Medicaid asset limit for a needs group of one is \$1,600.00 per month.
8. UPM § 4005.15 provides that 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.
9. UPM § 4030.30 (C) (1) (2) provides that if the total of all life insurance policies owned by the individual does not exceed \$1,500, 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 that has not cash surrender value. Except as provided above, the cash surrender value of life insurance policies owned by the individual is counted towards the asset limit.

10. The Department correctly determined the Appellant's John Hancock Life Insurance policy had a cash value in excess of \$1,500.
11. The Appellant had assets that exceeded the Medicaid asset limit of \$1,600.00 for the months of [REDACTED] 2014 through [REDACTED] 2014.
12. The Department correctly denied the Appellant's application for LTC Medicaid assistance due to excess assets for [REDACTED] 2014 through [REDACTED] 2014.

DISCUSSION


The Appellant's AREP testified that she was overwhelmed by her mother's admission to Avery Heights' nursing home in [REDACTED] 2014 and passing of her brother in [REDACTED] 2014. While these occurrences were unfortunate, the Appellant's LTC application was filed by the AREP in [REDACTED] 2014, which listed the John Hancock policy and its \$4,500 cash value. The Department's asset limit for Medicaid is \$1,600.

The Appellant's AREP expressed difficulty in reaching a department representative and the trouble of working with more than one individual. The Department met its responsibility to the Appellant by communicating openly the required verifications needed to determine eligibility.

There is no provision in Departmental regulations that would exclude the value of the Appellant's life insurance policy because of a lack of understanding of departmental guidelines or incorrect information received from John Hancock. The Department was correct in its decision to deny the Appellant's L01 application due to excess assets from [REDACTED] 2014 through [REDACTED] 2014.

DECISION

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


Christopher Turner
Hearing Officer

Cc: Musa Mohamud, Operations Manager Hartford
Elizabeth Thomas, Operations Manager Hartford
Connie Estanislau, Fair 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, law, and 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 06105-3730.

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, if 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 06105-3730. 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.