STATE OF CONNECTICUT DEPARTMENT OF SOCIAL SERVICES OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS 25 SIGOURNEY STREET HARTFORD, CT 06106-5033

2014 Signature Confirmation

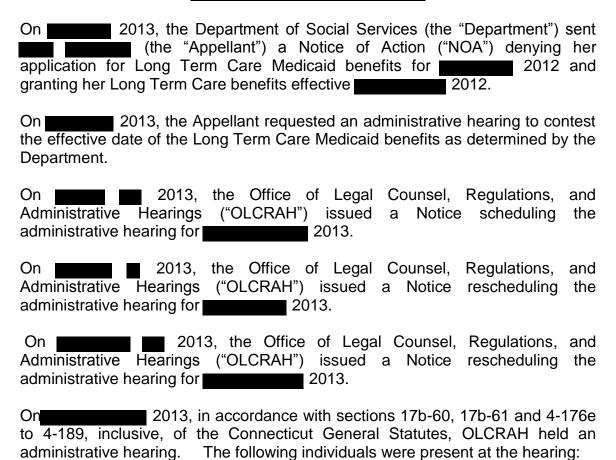
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NOTICE OF DECISION

<u>PARTY</u>



PROCEDURAL BACKGROUND



, Appellant's Representative, Daughter, Conservator of Estate and Person Jaime Chapelle, Department's Representative Miklos Mencseli, Hearing Officer

The Appellant was not present.

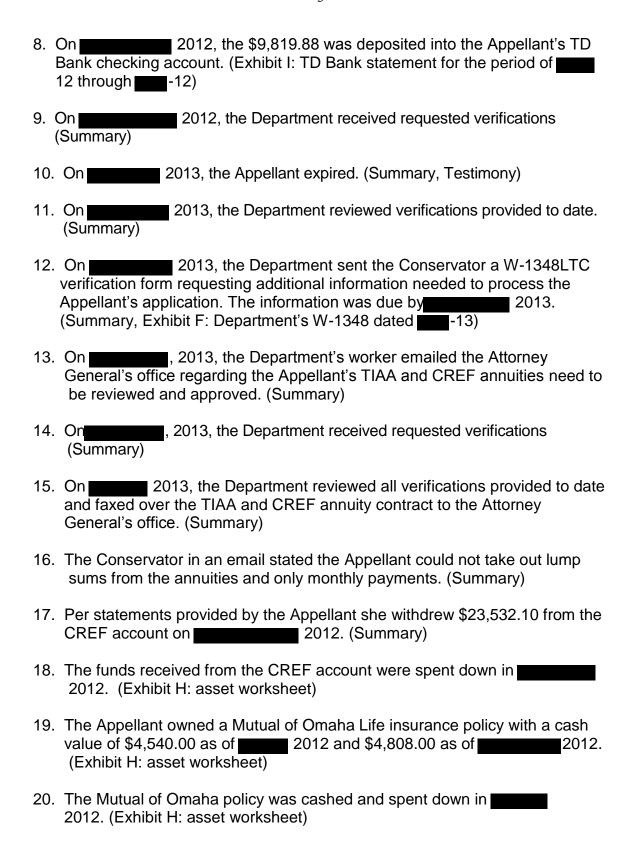
The hearing officer held the record open for the submission of additional evidence. On 2013, the hearing officer closed the record.

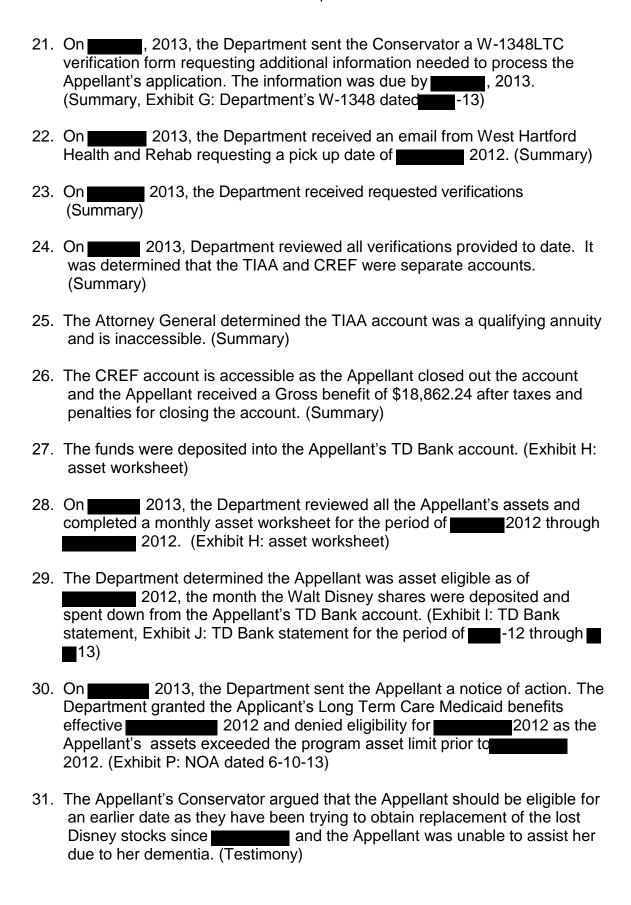
STATEMENT OF THE ISSUE

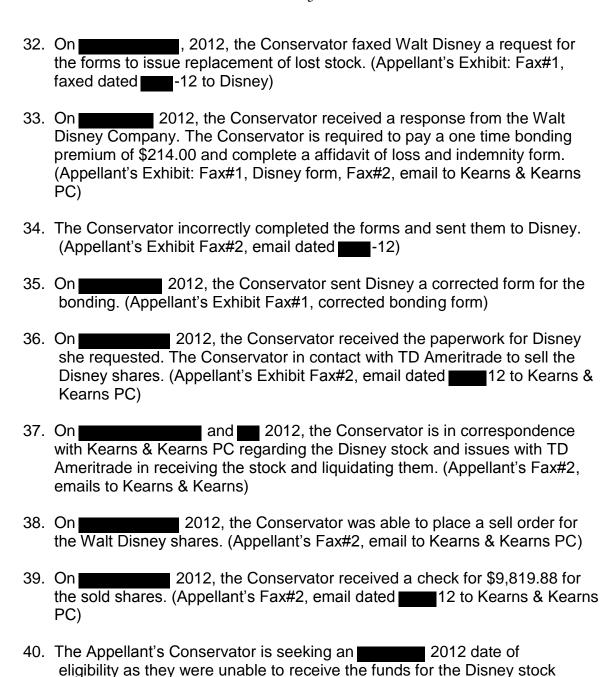
The issue is the effective date of Long Term Care Medicaid benefits.

FINDINGS OF FACT

- 1. On 2012, the Appellant applied for Medicaid for long term care assistance. The Appellant's daughter is listed as Conservator for the Appellant. (Summary, Exhibit A: Court of Probate certificate for appointment of Conservator)
- 2. The Appellant is a resident of West Hartford Health and Rehabilitation facility. (Summary)
- 3. On 2012, the Department sent the Conservator and the facility a W-1348LTC verification form requesting information needed to process the Appellant's application. The Department also included the forms; "Hints To Speed Up The Application Process" and "Applying for Medicaid to Pay for Long-Term Care" with its packet. The information was due by 2012. (Summary, Exhibit B: Department's W-1348 dated 2012. (Exhibit C: Hints form, Exhibit D: Applying for Medicaid form)
- 4. The Appellant owns 204 shares of Walt Disney stock. (Summary, Testimony, Appellant's Exhibit: Fax #1)
- 5. The Appellant's Conservator was unable to locate the original stock certificates, requested replacement certificates and requested they be issued as quickly as possible so the shares could be sold. (Appellant's Exhibit: Fax#1)
- 6. The Appellant was unable to assist the Conservator as she was diagnosed with the condition of Dementia as early as of 2012. (Appellant's Exhibit: Fax #3: medical documentation regarding the Appellant's Dementia)
- 7. On 2012, the Walt Disney shares were sold and the Appellant received a net amount of \$9,819.88. (Exhibit E: copy of bank receipt)







CONCLUSIONS OF LAW

 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.

until 2012 and spend down the funds. (Testimony)

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 unit.

- 3. 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.
- 4. UPM § 4015.05 pertains to inaccessible assets and states in part: Subject to the conditions described in this section, equity in an asset which is inaccessible to the assistance unit is not counted as long as the asset remains inaccessible. The burden is on the assistance unit to demonstrate that an asset is inaccessible.
- 5. The Appellant's Conservator demonstrated that the Walt Disney stock shares were inaccessible to the Appellant through the documentation provided to the Department.
- 6. UPM § 4099.15 (A) (1) pertains to factors relating to inaccessibility and states: the assistance unit must verify that an otherwise counted asset is inaccessible to the unit if the unit claims it can not convert the asset to cash.
- 7. The Appellant's Conservator could not convert the assets to cash until Walt Disney and TD Ameritrade completed the procedure and were satisfied they had the proper documentation.
- 8. UPM § 4099.15 (B) (1) pertains to factors once the asset becomes available and states: once an inaccessible asset becomes available to the unit, the unit must verify the amount of equity the unit has in the asset.
- 9. Once the assets were converted to cash and spent down, the Appellant's Conservator provided verification to the Department.
- 10. The Department correctly determined the CREF account is accessible as the Appellant closed out the account and received the benefit from the account in 2012.
- 11. The Department correctly determined the Mutual of Omaha life insurance policy is a countable asset.
- 12. UPM § 4005.10 provides that the Medicaid asset limit for a needs group of one is \$1,600.00 per month.
- 13. 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.

14. UPM § 1560.10 (A) provides for begin dates of Medicaid Assistance. The beginning date of assistance for Medicaid may be one of the following: 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.

DISCUSSION

The Appellant's Conservator made an effort to liquidate the Walt Disney stock. The Conservator provided enough evidence to establish her effort. The Appellant had no access to the funds. The Appellant was also unable to assist the Conservator due to her dementia as documented by medical records and prescription record provided by the Conservator. The Appellant has other assets that are not inaccessible and the Department will need to determine when those assets were spent down and the Appellant is below the asset limit.

DECISION

The Appellant's appeal is granted.

<u>ORDER</u>

- 1. The Department shall determine eligibility for the Appellant's application based on the inaccessibility of the Walt Disney stock.
- The Department shall grant Long Term Care Medicaid benefits based on new effective date the Appellant is below the asset limit.
- The Department shall determine if the Appellant is eligible for any retro months of eligibility.
- 4. No later than 2014, the Department will provide to the undersigned proof of compliance with this order.

Miklos Mencsell Hearing Officer

C: Lisa Wells, Operations Manager, DSS R.O. #10 Hartford

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 <u>specific</u> grounds for the request: for example, indicate <u>what</u> error of fact or law, <u>what</u> new evidence, or <u>what</u> other good cause exists.

Reconsideration requests should be sent to: Department of Social Services, Director, Office of Legal Counsel, Regulations, and Administrative Hearings, 25 Sigourney Street, Hartford, CT 06106.

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, 25 Sigourney Street, Hartford, CT 06106. 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.