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

, 2014 Signature Confirmation

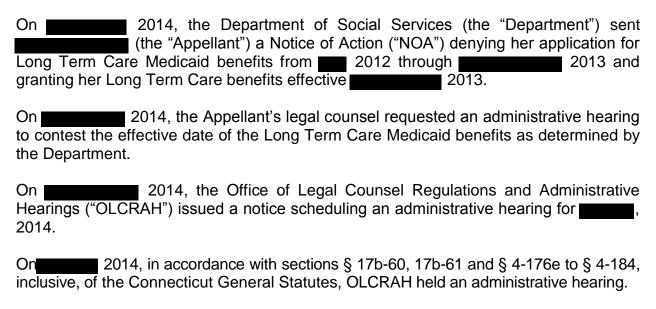
Client ID #: Hearing ID #: 582294

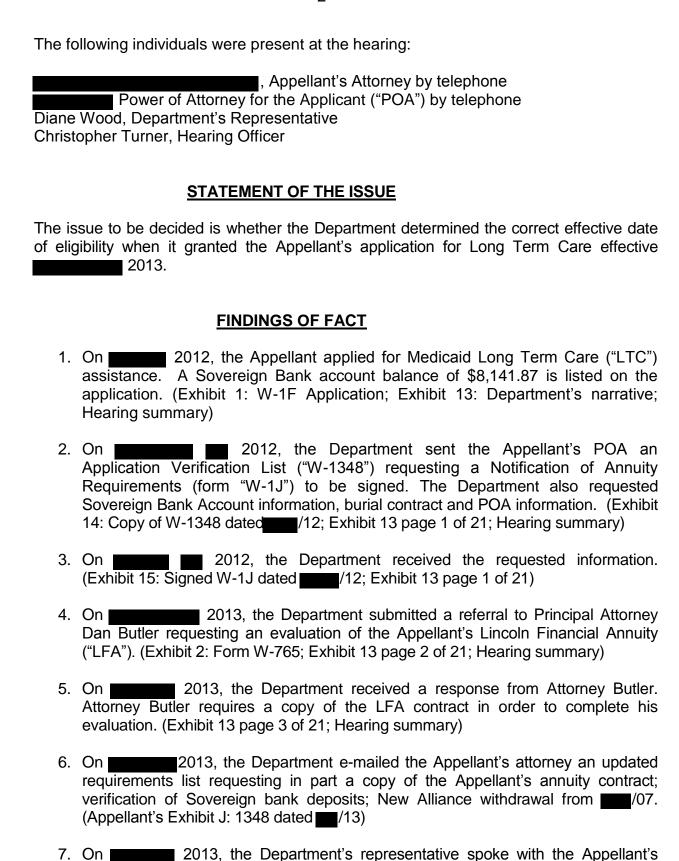
#### NOTICE OF DECISION

# **PARTY**

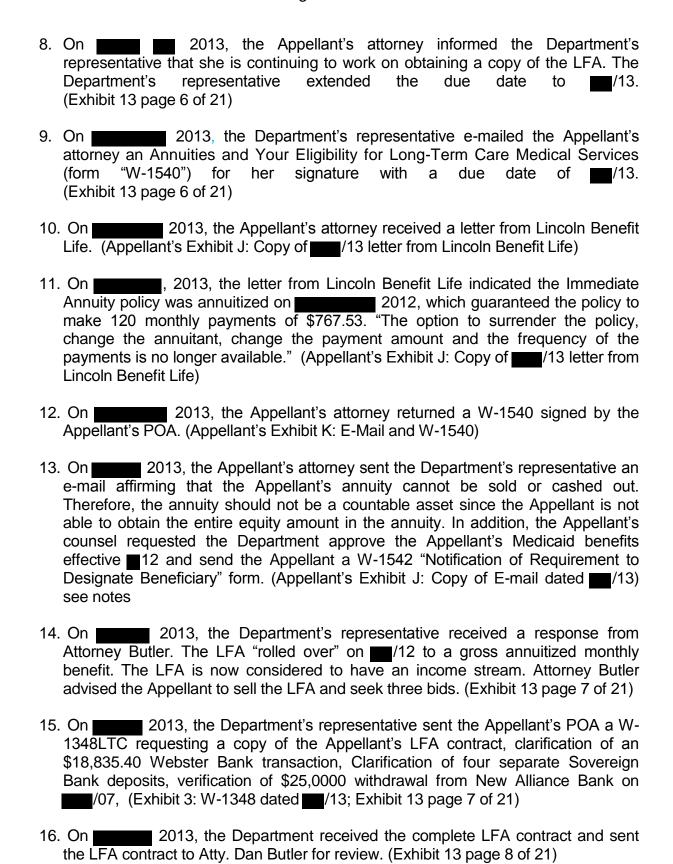


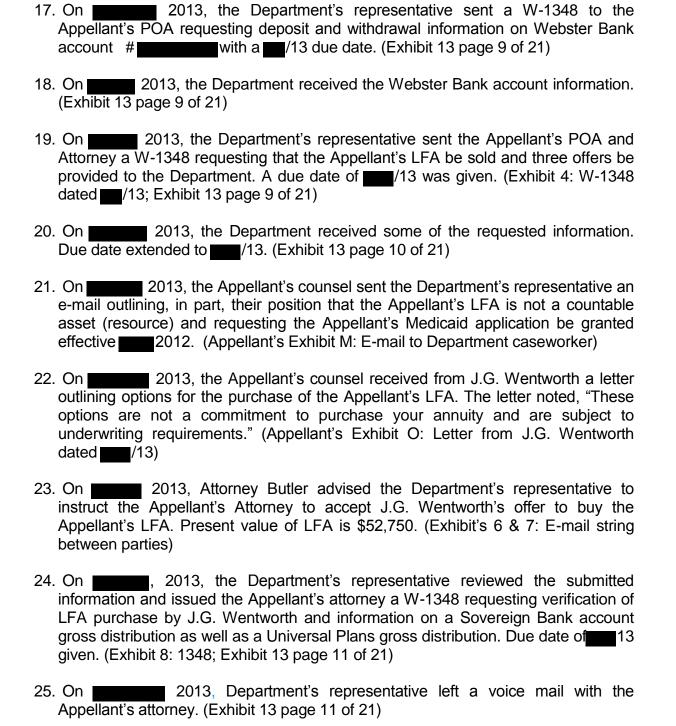
# PROCEDURAL BACKGROUND

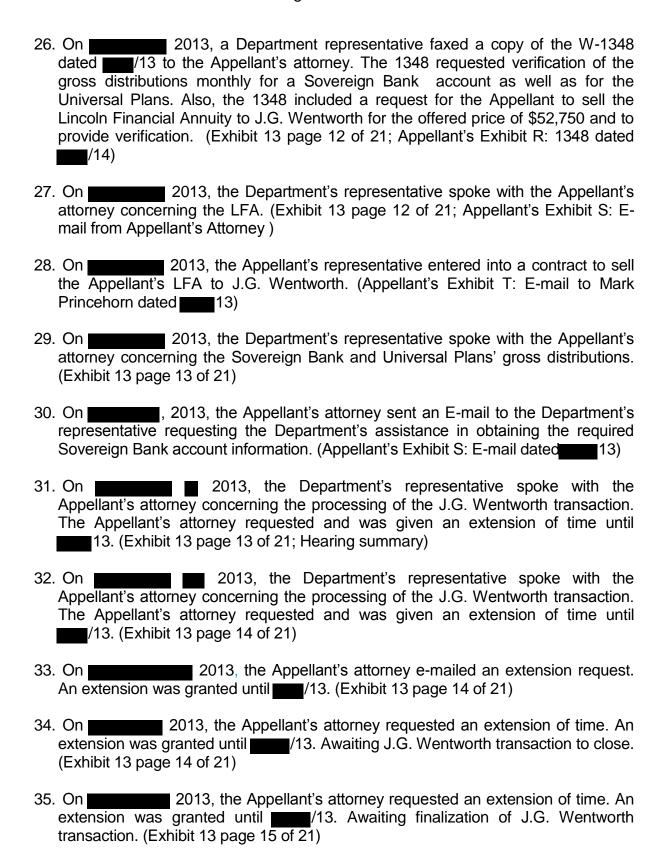


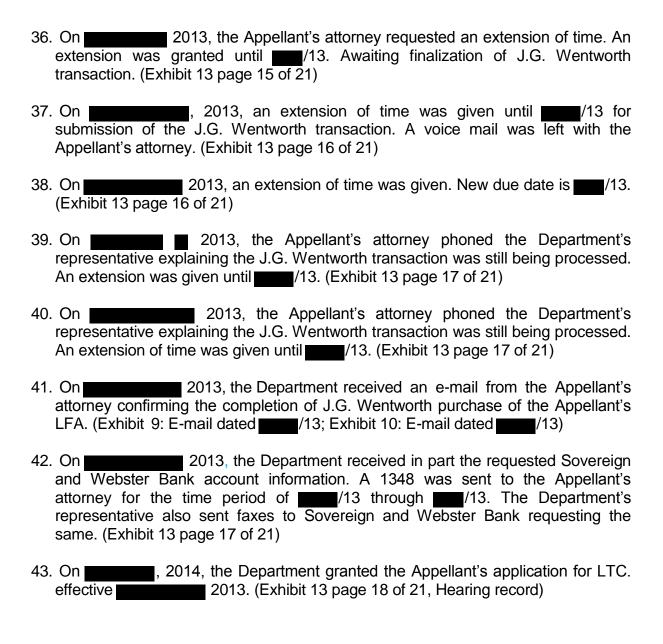


POA concerning the Appellant's LFA. (Exhibit 13 page 3 of 21)









# **CONCLUSIONS OF LAW**

- Section 17b-260 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the Medicaid program.
- 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 § 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 § 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.
- 5. UPM § 4005.10 (A) (2) (a) provides that the asset limit for Medicaid for a needs group of one is \$1,600.
- 6. UPM § 4015.05 pertains to inaccessible assets and states in part: Subject to the conditions described in this session, equity in an asset that 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.
- 7. The Appellant's legal counsel demonstrated that the LFA was inaccessible to the Appellant through the documentation from Lincoln Benefit Life provided to the Department on 2013.
- 8. The annuity meets the definition of being inaccessible.

## **DISCUSSION**

Regulation provides that under all programs except Food Stamps, the Department consider 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. In this case, the record reflects the Appellant's attorney believed, rightly, that the annuity was inaccessible based on the information she provided to the Department. However, the Appellant's attorney was instructed by the Department to sell the annuity thereby extending the processing of the Appellant's application. The Appellant's attorney did everything the Department asked of her without delay. Based on the above findings, I find the Appellant's eligibility begin date needs to evaluated based solely on the value of her bank accounts not the annuity.

## **DECISION**

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

#### **ORDER**

- 1. The Department is instructed to evaluate the Appellant's eligibility effective date of application based on only the value of her bank accounts, not the value of the annuity.
- 2. No later than 2014, the Department will submit verification of compliance with this order.

Christopher Turner
Hearing Officer

Cc: Albert Williams, Operations Manager Hartford Musa Mohamud, Operations Manager Hartford Elizabeth Thomas, Manager 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, 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.