# 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

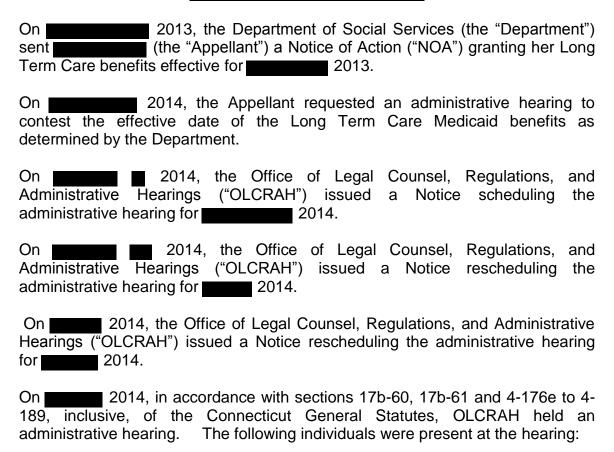
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## **NOTICE OF DECISION**

# <u>PARTY</u>

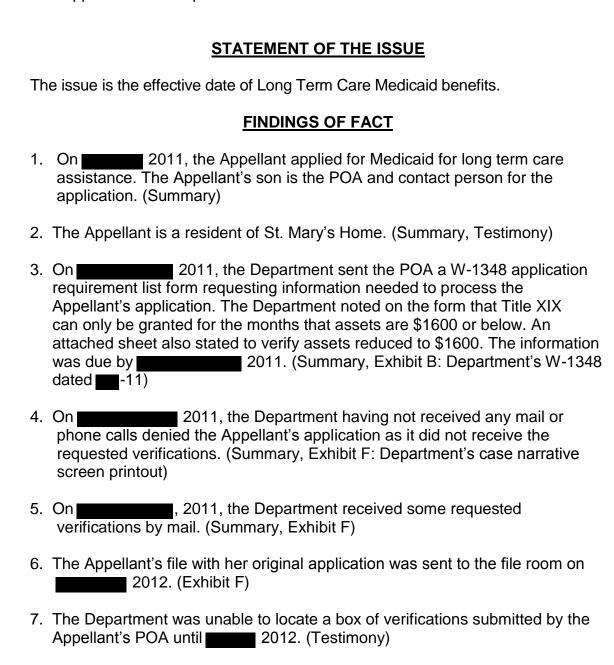


### PROCEDURAL BACKGROUND



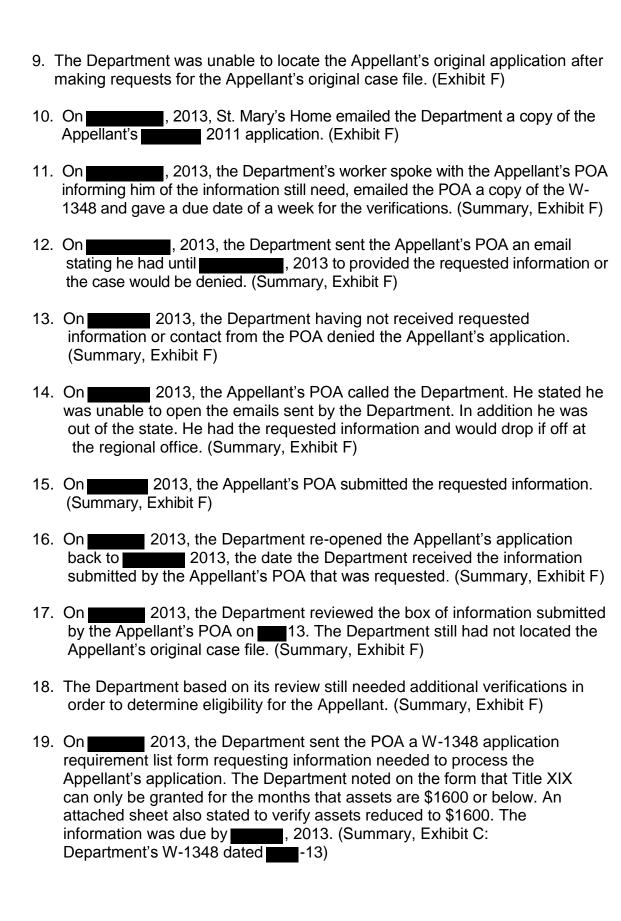
Appellant's Representative, Son, Power of Attorney ("POA")
Anne Jasorkowski, Attorney for St. Mary's
Liza Perez, Department's Representative
Miklos Mencseli, Hearing Officer

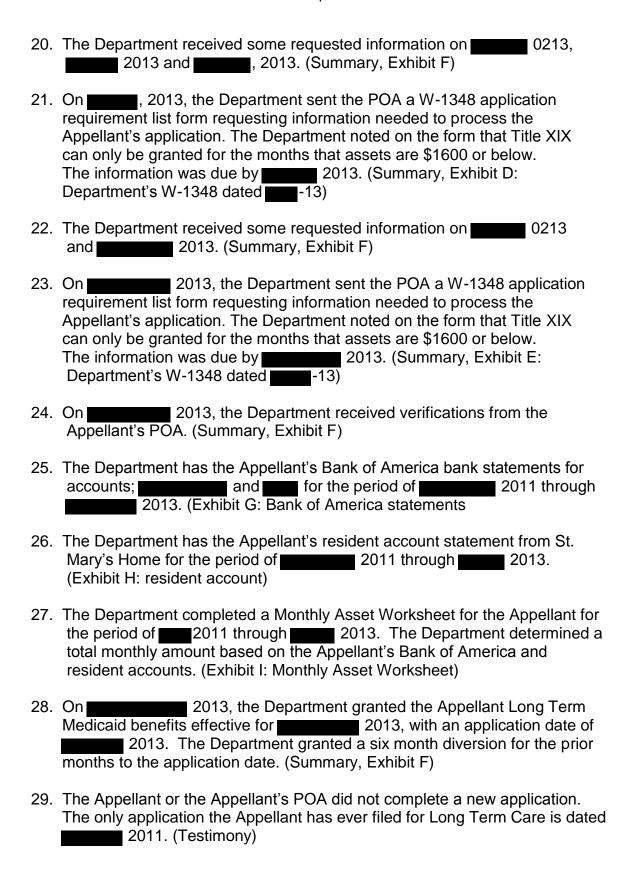
The Appellant was not present.



■ 2012, the Department re-opened the Appellant's application back

to the original application date of 2011. (Summary, Exhibit F)





30	. The Department did not request the Appellant to file a new application when the Department re-opened the application on 2012 and 2013. (Testimony)
31	. The Appellant's POA was not informed the application would only be granted from the re-open date of 2013. (Testimony)
32	. The Appellant is below the Medicaid asset limit for the months of 2011 and 2012 based on the Department's monthly asset worksheet. (Testimony, Exhibit I)
33	. The Department only determined eligibility for three months retrospectively from the re-opened date of 2013. (Testimony)
34	. The Appellant is seeking eligibility months from the original application date of 2011 up to the current grant date of 2012. (Testimony)
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) § 1505.10 (D) (1) provides for date of application. For AFDC, AABD and MA applications, except for the Medicaid coverage groups noted below in 1510.10 D.2, the date of application is considered to be the date that a signed application form is received by any office of the Department.
3.	The Appellant's application was received on 2011.
	UPM § 1505.45 (A)(2)(b)(1)(2) provides for reopening denied applications. A new application is required only if: the case is not reopened in the second thirty day period or a reopened case is denied a second time.
5.	The Department denied the Appellant's application a second time on 2013.
6.	The Department failed to require the Appellant to file a new application for Long Term Care Medicaid benefits.

7. The Department incorrectly gave the Appellant a new application date of

2013.

- 8. 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.
- 9. 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.
- 10. UPM § 4005.10 provides that the Medicaid asset limit for a needs group of one is \$1,600.00 per month.
- 11. The Appellant is below the \$1,600.00 asset limit for the months of 2011 and 2012.
- 12. 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.
- 13. 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 POA was credible and convincing. He had the expectation that the Department was honoring the original application date of 2011. The Department did not notify him that they were not honoring that date or have him file a new application. The only application the Department has is the 2011 one. The Department reopened the application to the 2012. If the Department did not intend to reopen the application on 2013 back to 2001, the Department should have made the Appellant's POA aware of this and required a new application to be filed. The Department shall determine the Appellant's eligibility from the original application date of 2011. The Department will grant any eligible months the Appellant is below the asset limit. The Department will also adjust the Appellant's diversion to correspond with any changes.

## **DECISION**

The Appellant's appeal is granted.

## **ORDER**

- 1. The Department shall determine eligibility for the Appellant based on the application date of 2011.
- 2. The Department shall determine if the Appellant meets the eligibility requirements for any months from 2011ongoing and grant eligibility.
- 3. No later than \_\_\_\_\_, 2014, the Department will provide to the undersigned proof of compliance with this order.

Miklos Mencseli Hearing Officer

C: Albert Williams, Operations Manager, DSS R.O. #10 Hartford Attorney Anne Jasorkowski

## 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.