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

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NOTICE OF DECISION

PARTY



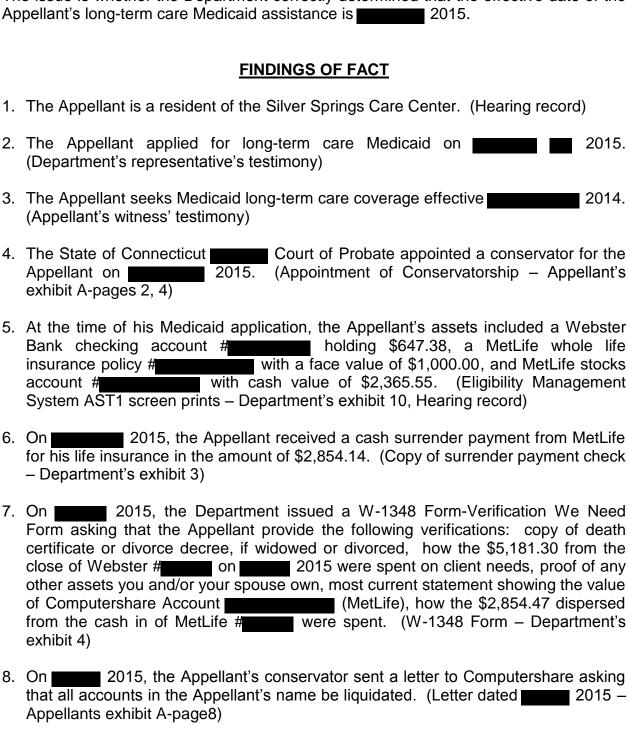
PROCEDURAL BACKGROUND

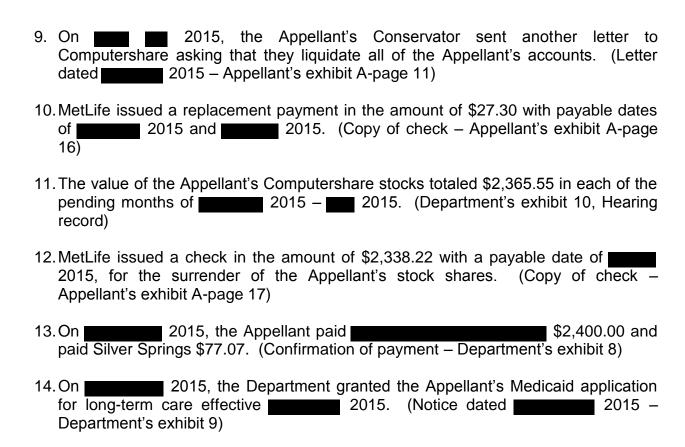
On 2015, the Department issued a Notice of Action ("NOA") to ("the Appellant") advising him that it had denied his long-term care Medicaid application for the months of 2015 2015 and had granted his application for long-term care Medicaid effective 2015.
On 2015, the Appellant requested an administrative hearing to contest the Department's determination of the effective date of long-term care Medicaid benefits.
On 2015, the Office of Legal Counsel, Regulations, and Administrative Hearings, ("OLCRAH") issued a notice scheduling an administrative hearing for 2015, to address the effective date of assistance.
On 2015, in accordance with Connecticut General Statutes § 17b-60, 17b-61 and 4-176e to 4-189, inclusive, OLCRAH held an administrative hearing.
The following individuals were present at the hearing:
Appellant's Conservator , Silver Springs Care Center, Appellant's Witness

Mario Ponzio, Department's Representative Pamela J. Gonzalez, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether the Department correctly determined that the effective date of the Appellant's long-term care Medicaid assistance is 2015.





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") § 4030 provides that the Department evaluates all types of assets available to the assistance unit when determining the unit's eligibility for benefits.
- 3. UPM § 4005.05(B)(1) states, 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:
 - a. available to the unit; or
 - b. deemed available to the unit.
- 4. 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.

- 5. The Department was correct to consider that the Appellant had the legal right, authority or power to obtain his MetLife stock shares and that they were available assets for Medicaid eligibility purposes.
- 6. UPM § 4030.75(A) states 1. The equity value of a share of stock is the net amount the owner would receive upon selling the share. 2. In computing this net amount due the owner, the Department subtracts the broker's fee, if any, from the market value of the share of stock.
- 7. UPM § 4015.05(A)(1) provides that 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.
- 8. UPM § 4015.05(B) provides in part, (1) The burden is on the assistance unit to demonstrate that an asset is inaccessible. (2) For all programs except Food Stamps, in order for an asset to be considered inaccessible, the assistance unit must cooperate with the Department as directed, in attempting to gain access to the asset.
- 9. The Appellant has not demonstrated that his stock assets were inaccessible from 2015 2015, inclusive.
- 10. Section 17b-80(a) of the Connecticut General Statutes states that the Department shall grant aid only if the applicant is eligible for that aid.
- 11. UPM § 1560.10 discusses Medicaid beginning dates of assistance and provides that the beginning date of assistance for Medicaid may be one of the following: A. 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; or B. The first day of the month of application when all non-procedural eligibility requirements are met during that month; or C. The actual date in a spenddown period when all non-procedural eligibility requirements are met. For the determination of income eligibility in spenddown, refer to Income Eligibility Section 5520; or D. The first of the calendar month following the month in which an individual is determined eligible when granted assistance as a Qualified Medicare Beneficiary (Cross Reference: 2540.90). The month of eligibility determination is considered to be the month that the Department receives all information and verification necessary to reach a decision regarding eligibility.
- 12.UPM § 4026.05 pertains to the calculation method for counted assets and states: The amount of assets counted in determining the assistance unit's eligibility is calculated in the following manner: A. The Department determines the amount of the assistance unit's available non-excluded assets by subtracting the value of the following assets owned by the assistance unit: 1. Those assets considered to be inaccessible to the assistance unit at the time of determining eligibility; and 2.

assets which are excluded from consideration. B. The Department adjusts the amount of the assistance unit's available non-excluded assets by: 1. subtracting a Community Spouse Disregard (CSD), when appropriate, for those individuals applying for assistance under the MAABD program (Cross reference: 4022.05); and 2. Adding any amount of assets deemed to be available to the assistance unit (Cross Reference: 4025); and 3. subtracting a Long-Term Care Insurance Disregard (LTCID), when appropriate, for those individuals applying for or receiving assistance under the MAABD program (Cross Reference: 4022.10). C. The amount remaining after the above adjustments is counted.

- 13. UPM § 4005.10(A)(2)(a) provides that the asset limit for the Medicaid program for a needs group of one is \$1,600.00.
- 14. The value of the Appellant's MetLife stocks of \$2,365.55 exceeded the Medicaid asset limit of \$1,600.00 for the months of 2015 through 2015.
- 15. UPM § 4005.15(A)(2) provides that 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.
- 16. The Appellant's assets were reduced to within the Medicaid asset limit in 2015.
- 17. The Department correctly determined that the Appellant is asset eligible for long-term care Medicaid effective 2015.

DISCUSSION

After reviewing the evidence and testimony presented, I find that the Department correctly determined the effective date of the Appellant's Medicaid assistance.

Regulations provide that eligibility for the Medicaid program begins the first day of the month in which the assistance unit reduces its equity in counted assets to within the asset limit. The Appellant's assets meet the available asset definition and their value was in excess of the program limit for the months of 2015 through 2015. Asset eligibility does not exist in this case until 2015.

The Appellant's Conservator testified that initially, he was unaware of the MetLife stock asset and once aware, he moved promptly to liquidate. In addition, he argued that the Appellant should not be harmed by the length of time Computershare took to liquidate his asset. He asks what more he could have done to establish the Appellant's asset eligibility.

The MetLife stock meets the definition of available asset. I have no authority to grant an exception to the regulations and find no error with the Department's determination of the effective date of Medicaid in this case.

DECISION

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

Pamela J. Gonzalez Hearing Officer

Copy: Tyler Nardine, SSOM, R.O. #50, Middletown

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 Administrative Hearings and Appeals, 55 Farmington Avenue, Hartford, CT 06105-3725.

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.