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

2016 Signature Confirmation

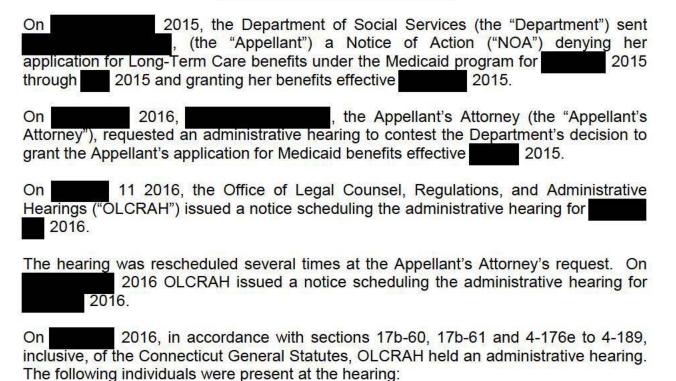
Client ID # Request # 744618

NOTICE OF DECISION

PARTY



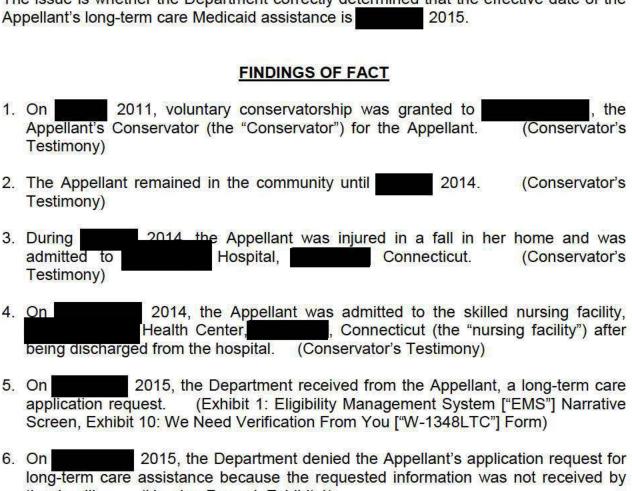
PROCEDURAL BACKGROUND



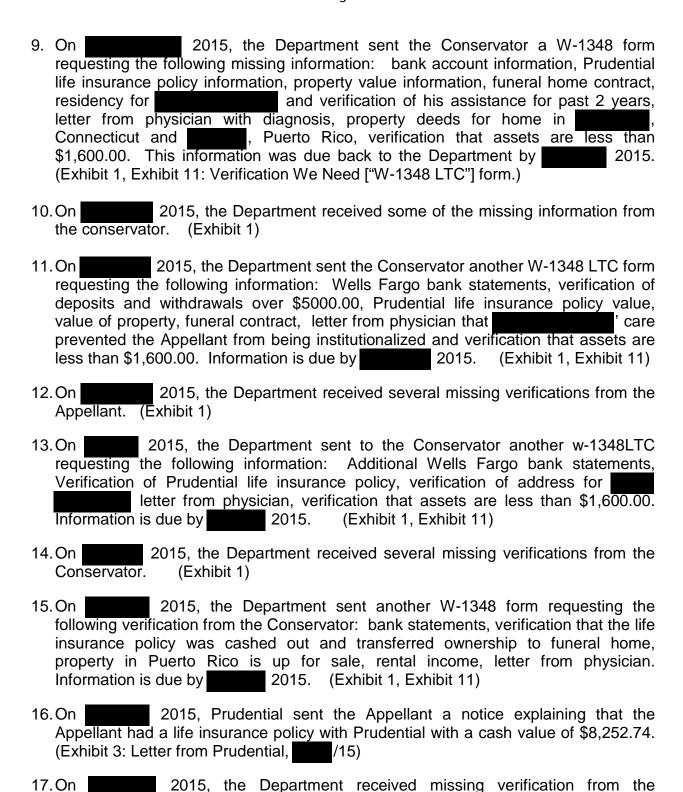
, Appellant's Conservator of Person and Estate and son (via telephone) Appellant's Attorney Leyla Miranda, Department's Representative Sybil Hardy, Hearing Officer

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.



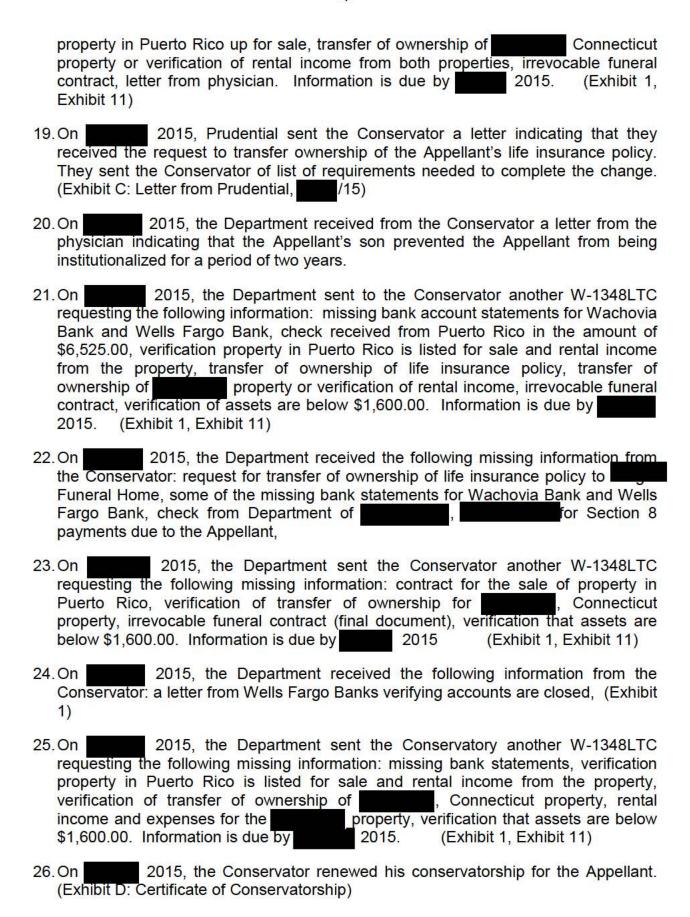
- 6. On (Hearing Record, Exhibit 1) the deadline.
- 7. On 2016, the Department received from the Appellant a new application request for long-term care assistance. (Exhibit 1, Exhibit 11: We Need Verification From You ["w-1348LTC"] Form,
- 8. The Appellant is 81 years old (DOB (134) and lives in a skilled nursing facility. (Conservator's Testimony)

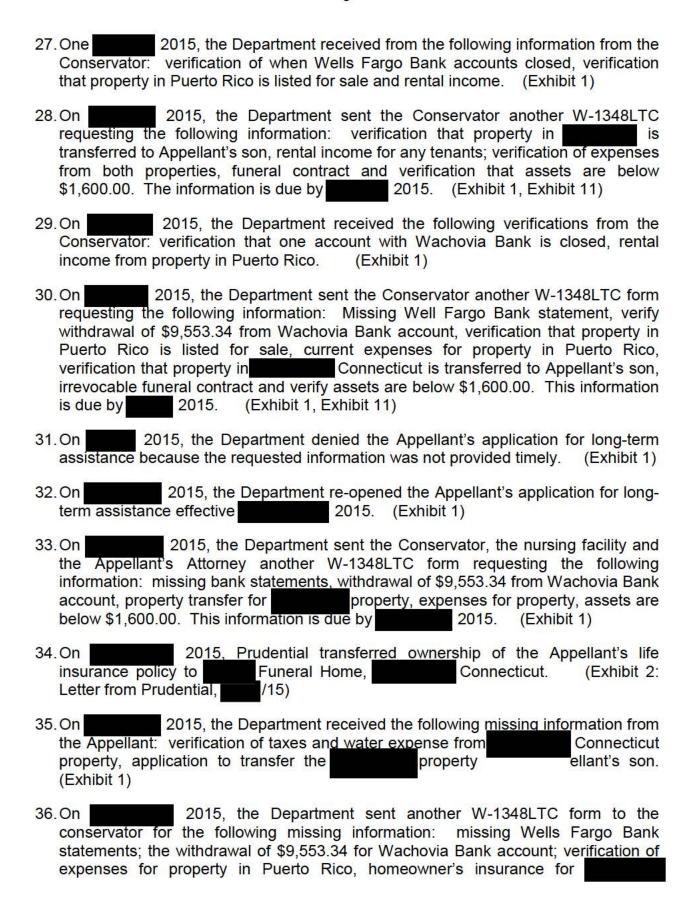


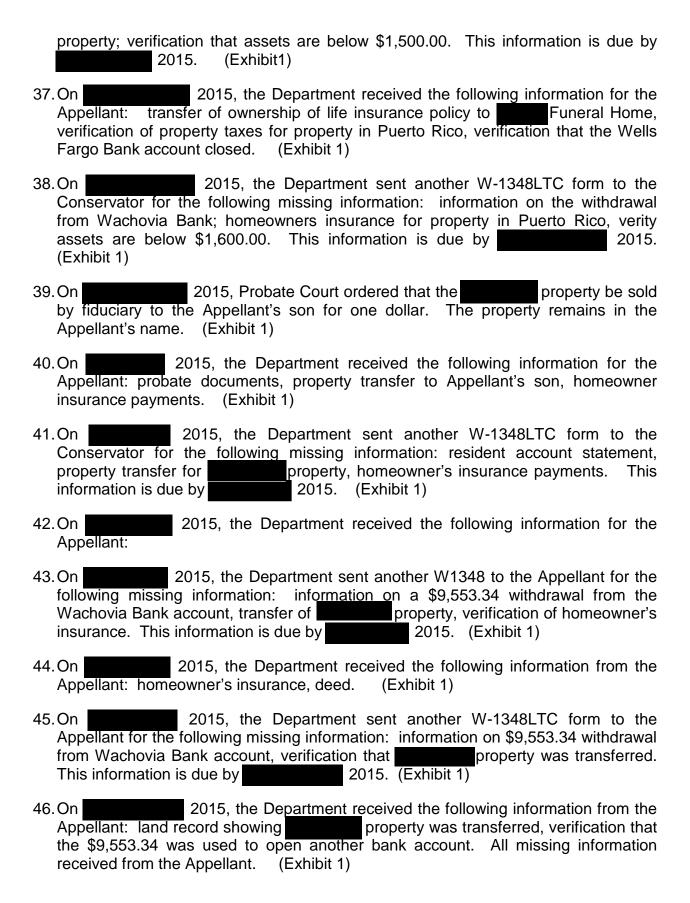
18.On 2015, the Department sent to the Conservator another W-1348LTC form requesting the following information: look back information on Wachovia Bank accounts and Wells Fargo Bank accounts, verification of life insurance policy,

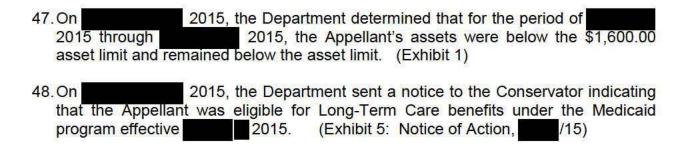
(Exhibit 1)

Conservator.









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.
- 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 § 4030 provides that the Department evaluates all types of assets available to the assistance unit when determining the unit's eligibility for benefits.
- 4. 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, 42USC 1396p.
- 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 the Department compare the assistance unit's equity in counted assets with the program asset limit when determining whether the unit is eligible for benefits and 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 (A)(2)(a) provides that the asset limit for Medicaid for a needs group of one is \$1,600.
- 8. The Department correctly determined that bank accounts with Wachovia Bank and Wells Fargo Bank are owned by the Appellant.
- 9. The Department correctly determined that the life insurance policy with Prudential is owned by the Appellant.
- 10. UPM § 4005.15(A)(2) provides that at the time of application, the assistance unit is ineligible for assistance until the first day it reduces its equity in counted assets to within the particular program asset limit.
- 11. The Department correctly determined that the accounts with Wachovia Bank, Wells Fargo Bank and the life insurance policy were accessible assets for the Appellant.
- 12. The Department correctly determined that the Appellant's assets exceeded the \$1,600.00 asset limit for period of 2015 through 2015.
- 13. UPM§ 4005.15(B)(2)(b) provides in part that if the assistance unit does not reduce its excess to an allowable level by the end of the month the excess first occurs, the unit is ineligible as of the first day of the following month and remains ineligible until the first day of the month in which the unit properly reduces its assets to an allowable level.
- 14. The Department correctly determined that the Appellant was ineligible for Medicaid for the period of 2015 through 2015.
- 15. UPM § 1560.10 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 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 spend-down period when all non-procedural eligibility requires are met. For the determination of income eligibility in spend-down, 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: 2540.94). 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.
- 16. The Department correctly denied the Appellant's long-term care Application for the period of 2015 through exceeded the Medicaid asset limit.

17.	The Department correctly effective 2015.	granted the Appellant's	s long-term care	e Medicaid	benefits
		DISCUSSION			

After reviewing the testimony and evidence presented, I find that the Department correctly determined the effective date of the Appellant's long-term care Medicaid assistance is 2015.

The Conservator provided testimony that it took a long time to transfer ownership of the property and the life insurance policy with Prudential. The evidence does indicate that good effort was made in obtaining the necessary verification's to complete the Appellant's application. However, the assets were owned by the Appellant and accessible to Appellant during that time, therefore they must be counted as accessible assets by the Department.

During the month of 2015, the Appellant's assets were reduced below the Medicaid program limits and remained below the asset limits for the following months. Regulations provide that the eligibility for the Medicaid program begins the first day of the month in which the assistance unit reduces it equity in counted assets to within the program asset limit. The Appellant's assets exceeded the program asset limit for the period of 2015 through 2015.

DECISION

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

Hearing Officer

Pc: Peter Bucknall, Operations Manager; DSS R.O. # 60, Waterbury Karen Main, Operations Manager; DSS R.O. # 60, Waterbury Leyla Miranda, Fair Hearings Liaison, DSS R.O. # 60, Waterbury

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.

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.