STATE OF CONNECTICUT DEPARTMENT OF SOCIAL SERVICES OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS 55 FARMINTON AVENUE HARTFORD, CT 06105-3730

2016
Signature Confirmation

Client ID # Request #765348

NOTICE OF DECISION

PARTY



PROCEDURAL BACKGROUND

On ________ 2016, the Department of Social Services (the "Department") sent (the "Appellant") a Notice of Action ("NOA") granting Long Term Care Medicaid benefits effective 2016.

On _______ 2016, the Appellant requested an administrative hearing to contest the effective date of the Long Term Care Medicaid benefits as determined by the Department.

On _______ 2016, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice scheduling the administrative hearing for ______ 2016.

On _______ 2016, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice rescheduling the administrative hearing for _______ 2016.

On 2016, in accordance with sections 17b-60, 17-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing. The following individuals were present at the hearing:

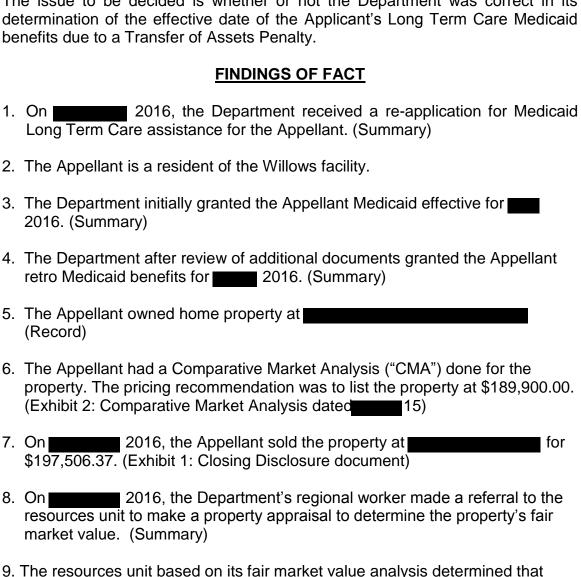
Attorney Esq., Appellant's Conservator Glenda Gonzalez, Department's Representative Lisa Gourdier, Department's Representative Miklos Mencseli, Hearing Officer

The Appellant was not present.

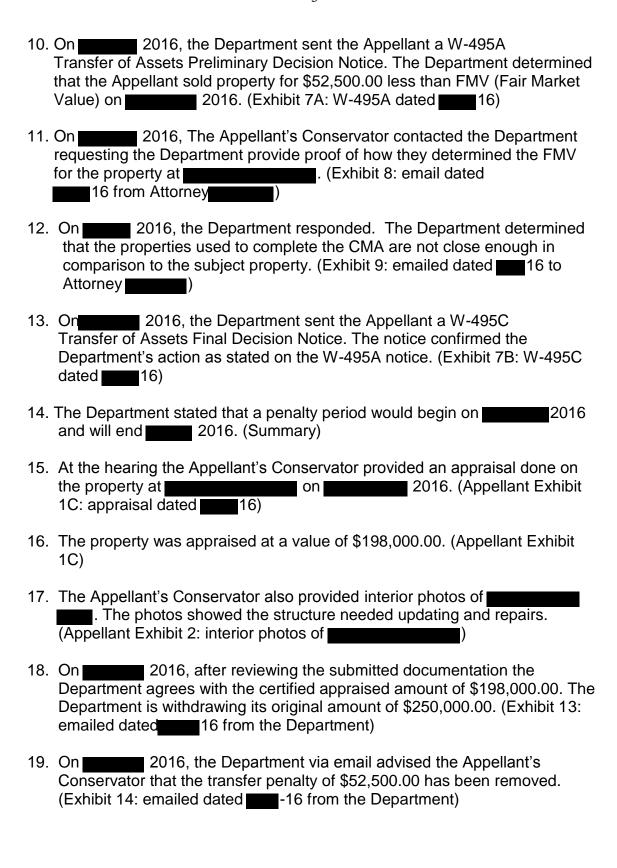
The hearing record was held opened for the Department to review submission of additional evidence that was presented at the hearing. On 2016, the hearing officer closed the record.

STATEMENT OF THE ISSUE

The issue to be decided is whether or not the Department was correct in its determination of the effective date of the Applicant's Long Term Care Medicaid benefits due to a Transfer of Assets Penalty.



9. The resources unit based on its fair market value analysis determined that the fair market value of the property is \$250,000.00. The Department compared recent a number of comparable sales in the area. The resources unit placed the fair market value of the Appellant's property at \$250,000.00. (Summary, Exhibit 6: Departmental email dated 16)



CONCLUSIONS OF LAW

- 1. Sections I7b-260 to 17b-264 of the Connecticut General Statutes authorizes the Commissioner of Social Services to administer the Title XIX Medical Assistance program to provide medical assistance to eligible persons in Connecticut.
- 2. Section 17b-2 of the Connecticut General Statue authorizes the Commissioner of the Department of Social Services to administer the Medicaid program.
- 3. Uniform Policy Manual ("UPM") § 4030.20 (D) provides for treatment of Specific Types of assets. Home Property
 - 2. If the individual enters a long-term care facility and none of the persons listed above is lawfully residing in the individual's home, the home's status as an excluded asset depends upon the expectation of the individual to return to the home.
 - b. If the individual cannot reasonably be expected to return to the home, the home is considered non-home property, and is subject to the policies and procedures described in this chapter.
- 4. UPM procedures section P-4030.40 provides for treatment of non-home property.
 - 1. If an assistance unit owns non-home property, inform the unit of the Department's policy concerning non-home property, including the security mortgage and lien requirements.
 - Refer the case to the Resources Unit. which:
 - computes the unit's equity in the home; and
 - makes sure the unit is making a good-faith effort to sell; and
 - obtains a security mortgage, or places a lien, if required.
- 5. The Department was correct to make a referral to the Resources unit to determine the property's equity and fair market value.
- 6. UPM procedures section P-4099.05 provides for verification of asset limits.
 - Verification regarding the status of the assistance unit's assets as excluded, inaccessible, counted, or deemed is discussed in the previous pages of this chapter.
 - The following sources may be used to verify the assistance unit's or deemor's equity in counted assets:

| | | NADA "blue" book of trade-in values for automobiles; |
|--|---|---|
| | | real estate conveyance records; |
| | | marketing appraisals; |
| | | bank records; |
| | | passbooks; |
| | | records of stock transactions; |
| | | property appraisals performed by the Department; |
| | | tax assessment records; |
| | | tracers sent by the Department and answered by appropriate agency personnel (e.g. W-36 completed by bank official; W-279 completed by insurance company official). |
| 7. The Department correctly conducted an appraisal of the property at . | | |
| | 3. The Department determined the fair market value of the property is \$250,000.00. | |
| 9. The Department upon review of documentation submitted at the hearing has withdrawn its original FMV amount of \$250,000.00 and agrees with the appraisal amount of \$198,000.00 | | |
| The Department has removed the Appellant's transfer of assets penalty of \$52,500.00. | | |
| 11. The hearing issue for which a hearing was conducted no longer exists, therefore; there is no issue on which to rule. | | |
| DISCUSSION | | |
| | | |

After the hearing was held on 2016, the Department removed the transfer of assets penalty. As the issue of the hearing was whether or not the Department was correct to impose a transfer of assets penalty of \$52,500.00, the

Department has rescinded its penalty proposal; the issue of the hearing no longer exists

DECISION

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

Miklos Mencseli Hearing Officer

C: Brian Sexton, Operations Manager, DSS R.O. #20 New Haven

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.