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

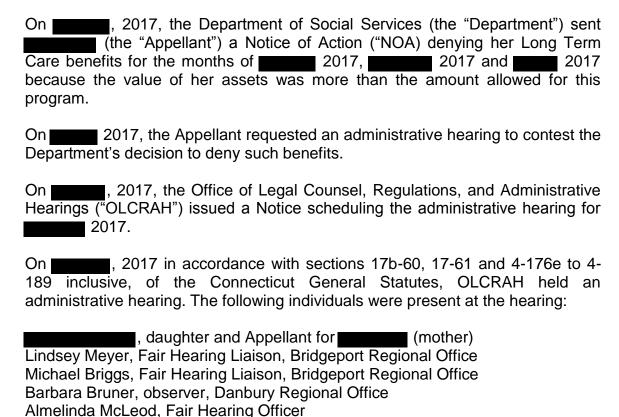
2017
Signature Confirmation

Client ID # Request # 822690

### **NOTICE OF DECISION**

# <u>PARTY</u>

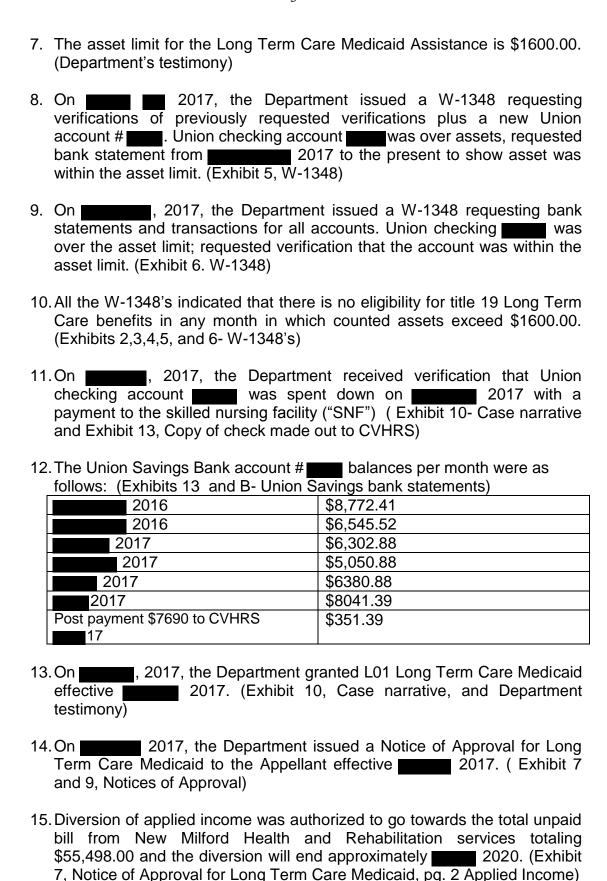
# PROCEDURAL BACKGROUND

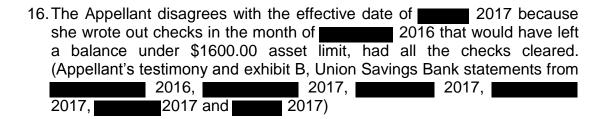


The hearing record was held open for the submission of additional evidence. On 2017 the hearing record was closed.

# STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Appellant's benefits under the Medicaid for Long Term Care Program for the months of and and 2017 was correct. FINDINGS OF FACT 2016, the Appellant was admitted to Candlewood Long Term skilled nursing facility for rehabilitation. Family members decided she would stay after the passing of the Appellant's spouse on 2016. (Appellant's testimony) 2. Candlewood was bought out by New Milford Rehabilitation. The Appellant is resident at New Milford Health and Rehabilitation. (Department testimony) 2017, the Department received a W-1LTC application and screened an L01 application for long term care. (Exhibit 1, W1LTC application) 4. On \_\_\_\_\_\_, 2017, the Department issued a W-1348 Verification We Need form requesting proof of Power of Attorney or Conservatorship, Copy of spouse's death certificate, Proof of all assets, verification of all transactions of \$5000 or more (Debits or credits) in the Unions Savings bank accounts and all other bank accounts from 2012. 2013 and 2014, verification of closed accounts, all funeral contracts, property deeds, listing agreement for sale of home property. (Exhibit 2, W-1348) 2017, the Department issued a W-1348 requesting Proof of Union Savings Bank checking # Bank statements for 2015 to the present and 2012, 2013 and 2014. All accounts in the spouses' name, from 2015 and 2012, 2013 and 2014. Verification of all closed accounts, for the same time period. (Exhibit 3, W-1348) ■ 2017, the Department issued a W-1348 requesting verification of specific transactions within the following assets; Union checking \_\_\_\_, Union CD \_\_\_ and Union CD , from 2015 to the present, and 2012, 2013 and 2014. Union checking was over assets, needed verification to show this asset was under the asset limit. (Exhibit 4, W-1348)





# **CONCLUSIONS OF LAW**

- Section 17b-2 (6) of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the Medicaid program pursuant to the Title XIX of the Social Security Act.
- 2. Connecticut General Statutes ("Conn. Gen. Stat.") § 17b-261 provides in part, any disposition of property made on behalf of an applicant or recipient or the spouse of an applicant or recipient by a guardian, conservator, person authorized to make such disposition pursuant to a power of attorney or other person so authorized by law shall be attributed to such applicant, recipient or spouse.
- 3. Conn. Gen. Stat. § 17b-261 (c) provides in part, that for the purposes of determining eligibility for the Medicaid program, an vailable 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.
- 4. 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:
  - a. available to the unit: or
  - b. deemed available to the unit.
- 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. The Department correctly determined that the Union Savings Bank accounts, Spouses accounts, CD accounts, property and all other assets reported on the application was an accessible asset available to the Appellant, who has the legal right and authority or power to

# obtain the asset or to have it applied for the Appellant's medical support.

- 7. 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.
- 8. UPM § 4005.10. (A) (2) (a) provides that in the MAABD program, the asset limit is \$1600 for a needs group of one person.
- 9. 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.
- 10. UPM § 4005.15(B) (2) (b) provides that for recipients, if the assistance unit does not reduce its excess assets 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 proper reduces its assets to an allowable level.
- 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 spendown period when all non-procedural eligibility requirements are met. For the determination of income eligibility in spendown, 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 m month that the Department receives all information and verification necessary to reach a decision regarding eligibility.

12.T	he Depart	ment cor	rectly co	unted the	Appellant's	assets	for	the
m	onths of		2016,	20	016,	2017,		
2	017 and	2017	•	<del></del>	-			

13. The	Department	correctly	determined	that	the	Appellant's	total
asse	ets exceeded	the Medica	aid asset limi	t of \$1	600	for the perio	ds of
	2016,		2016,	20	17,	201	7 and
	2017.		30% <del>9</del> 7	92.	10.		

- 14. The Department correctly determined the Appellant's assets were spent down in 2017 to the allowable asset limit of \$1600.00.
- 15. The Department correctly granted Long Term Care Medicaid effective 2017 when the assets were reduced to the allowable asset limit of \$1600.00.

# DISCUSSION

Based upon the evidence and testimony of this hearing, the Department's decision to grant LTC Medicaid effective 2017 is upheld.

Documentary evidence provided by the Appellant and the Department did not support the Appellants argument that the sum of all checks written and sent off by the end of 2016 would show that the Appellant was well under the \$1600.00 asset limit. The documentary evidence showed that some of the checks made out in 2016 did not clear until after the following month. None of the bank statements provided of the Union Savings bank account # showed a balance under \$1600.00 until 2017.

The Appellant did not prove the assets were reduced to \$1600 or below for the months of 2016, 2017, 2017, 2017 and 2017 nor 2017, therefore, the action taken by the Department was proper according to federal guidelines and departmental regulations.

# DECISION

The Appellant's appeal is DENIED

Almelinda McLeod Hearing Officer

CC: Carol Sue Shannon, SSOM Danbury Regional Office Lindsey Meyer, Fair Hearing Liaison, Bridgeport Regional Office Michael Briggs, Fair Hearing Liaison, Bridgeport Regional Office

# 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 what error of fact or law, what new evidence, or what 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.