STATE OF CONNECTICUT DEPARTMENT OF SOCIAL SERVICES OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS 55 FARMINGTON AVENUE

HARTFORD, CT 06105-3725

2018

SIGNATURE CONFIRMATION

Client ID # Request # 834945

NOTICE OF DECISION

PARTY



PROCEDURAL BACKGROUND

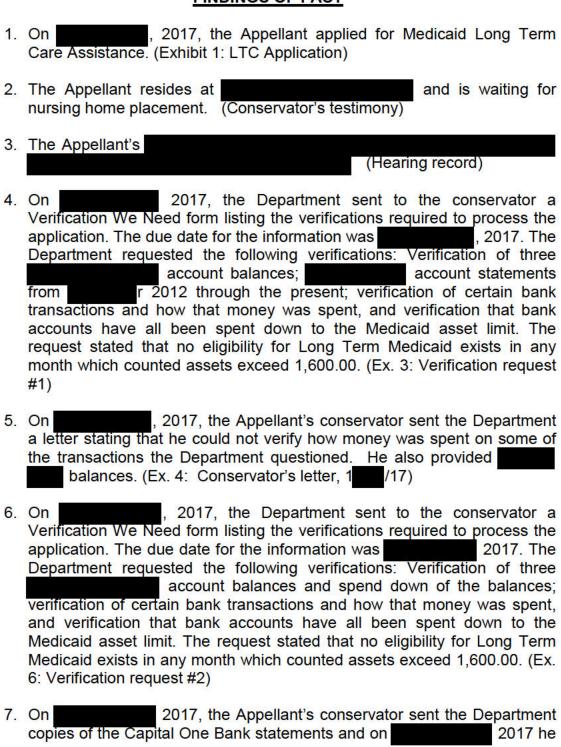
Dorothea Kelson, Department's Representative Thomas Monahan, Hearing Officer

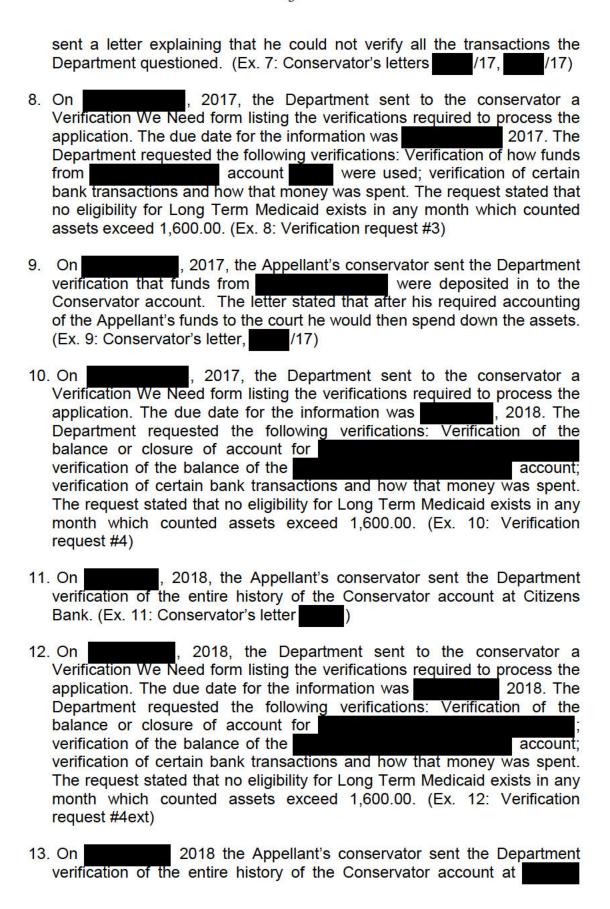
STATEMENT OF THE ISSUE

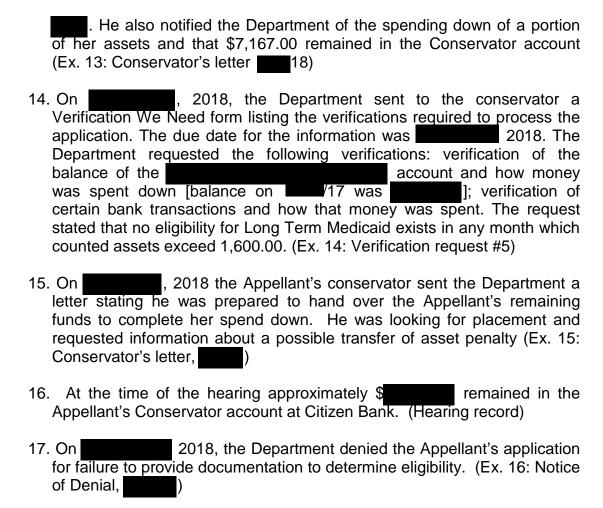
administrative hearing. The following individuals were present at the hearing:

The issue to be decided is whether the Department's decision to deny the Appellant's application for LTC Medicaid due to failure to submit information needed to establish eligibility was correct.

FINDINGS OF FACT







CONCLUSIONS OF LAW

- Section 17b-2 and § 17b-260 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.
- Regulation provides that the assistance unit must supply the Department in an accurate and timely manner as defined by the Department, all pertinent information and verification which the Department requires to determine eligibility and calculate the amount of benefits. Uniform Policy Manual ("UPM") § 1010.05(A)(1)
- 3. Regulation provides that the Department must inform the assistance unit regarding the eligibility requirements of the programs administered by the Department, and regarding the unit's rights and responsibilities. UPM § 1015.10(A)

- 4. The Department correctly sent the Appellant's conservator multiple Verification We Need lists requesting information needed to establish eligibility.
- 5. Regulation provides that the Department determines eligibility within the standard of promptness for the AFDC, AABD, and MA programs except when verification needed to establish eligibility is delayed and one of the following is true: the client has good cause for not submitting verification by the deadline, or the client has been granted a 10 day extension to submit verification which has not elapsed. UPM § 1505.35(D)(2)
- 6. Regulation provides that for delays due to insufficient verification, regardless of the standard of promptness, no eligibility determination is made when there is insufficient verification to determine eligibility when the following has occurred: 1. the Department has requested verification; and 2. at least one item of verification has been submitted by the assistance unit within a time period designated by the Department but more is needed. UPM § 1505.40(B)(5)(a)
- 7. The Department correctly sent to the Appellant's AREP requests for additional documentation when the conservator sent in some, but not all of the requested verifications for the Appellant's application.
- 8. Uniform Policy Manual ("UPM") Section 4030 provides that the Department evaluates all types of assets available to the assistance unit when determining the unit's eligibility for benefits.
- 9. Connecticut General Statues 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, 42 USC 1396p.
- 10. Regulation 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. UPM § 4005.05 (A)
- 11. Regulation 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. UPM § 4005.05 (D)

- 12. Regulation provides that the Medicaid asset limit for a needs group of one is \$1,600.00. UPM § 4005.10
- 13. Regulation 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. UPM § 4005.15
- 14. The assets in the Conservator account have not been spent down to within the \$1,600.00 asset limit.
- 15. The Department correctly determined that the Appellant's assets exceeded the limits for Medicaid eligibility.
- 16. The Department correctly denied the Appellant's LTC Medicaid application.

DISCUSSION

After reviewing the evidence and testimony presented, the Department's action to deny the Appellant's request for Medicaid is upheld. The correct reason for the denial is that the Appellant is over the asset limit. It is unclear from the evidence and testimony that verification of the liquidation of the Appellant's three accounts was received by the Department. The Department did not request verification of closure of the accounts on its final verification request. Regarding requests for money spent on certain transactions, the Conservator stated he could not verify how the money was spent on some of the transactions because of accounts a transfer of asset penalty not a denial if all assets were verified and with the asset limit.

Regardless of any possible transfer of asset penalties, the Appellant remained over the asset limit throughout the application process and did not spend down her assets to within the \$1,600.00 limit. Regulation states that eligibility does not begin until the month that assets are within the \$1,600.00 limit.

DECISION

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

Thomas Monahan Hearing Officer C: Lisa Wells, Operations Manager, New Haven Regional Office Rachel Anderson, Operations Manager, New Haven Regional Office Cheryl Stuart, Operations Manager, New Haven Regional Office Dorothea Kelson, Hearing liaison

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 Administrative Hearings and Appeals, 55 Farmington Avenue, Hartford, CT 060105-3725.

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 06105-3725. 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.