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

, 2019 Signature Confirmation

Client ID # Request #133530

# **NOTICE OF DECISION**

## **PARTY**



## PROCEDURAL BACKGROUND

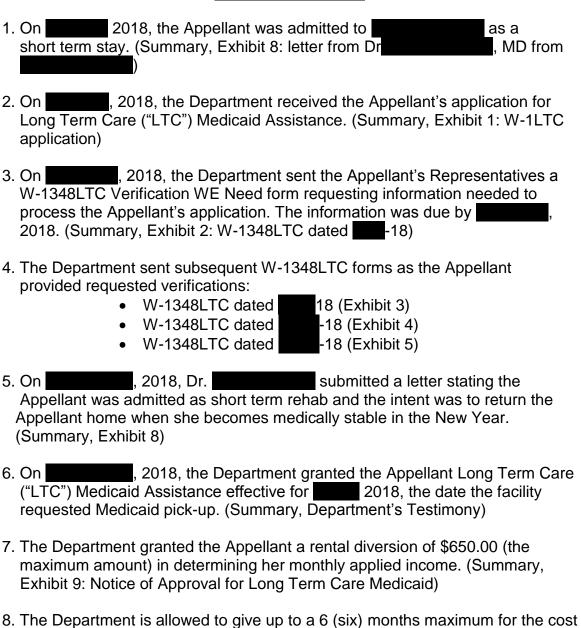
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On, 2018, the Department of Social Services (the "Department") sent ("Appellant") a Notice of Action ("NOA") stating that she must pay \$751.00 towards the cost of her care effective 2019.
On 2018, the Appellant requested an administrative hearing to contest the determination of the amount of applied income that she has to pay towards her care.
On, 2018, the Office of Legal Counsel, Regulations, and Administrative Hearings, ("OLCRAH") sent a Notice of Administrative Hearing scheduling a hearing for, 2019.
On 2019, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, OLCRAH held are administrative hearing. The following individuals were present at the hearing:
Appellant's Daughter, Power of Attorney (POA) Appellant's Son in-law, Representative Angella Querette, Department's Representative via telephone William Salwocki, Department's Representative Miklos Mencseli, Hearing Officer

The Appellant was not present.

#### STATEMENT OF THE ISSUE

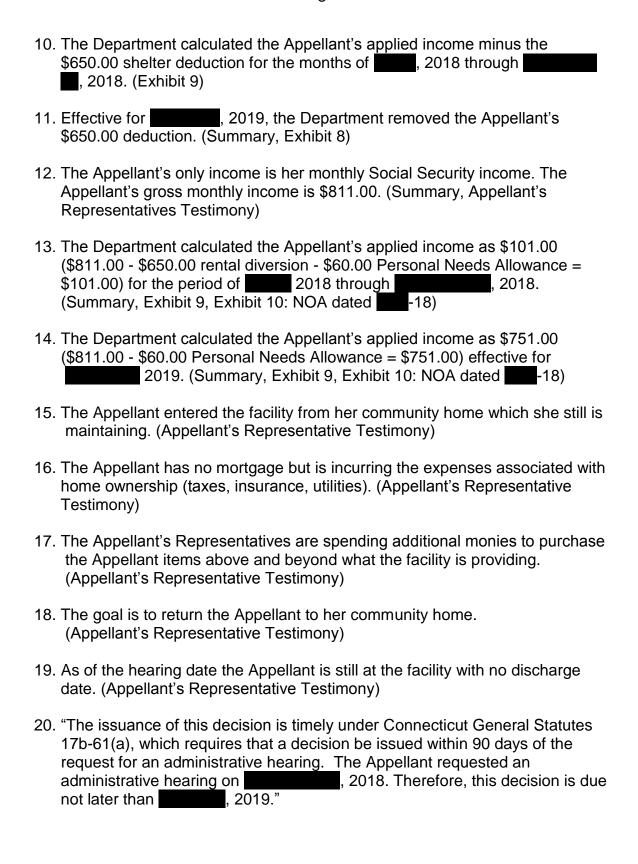
The issue to be decided is whether the Department correctly determined the amount of the Appellant's monthly applied income effective for 2019.

### **FINDINGS OF FACT**



 The Department's deductions for Long Term Care Medicaid are limited to the shelter deduction and expenses for services provided by a licensed medical provider. (Department's Testimony)

of maintaining a home in the community. (Department's Testimony)



#### **CONCLUSIONS OF LAW**

- Section 17b-2 of the Connecticut General Statutes ("CGS") authorizes the Commissioner of the Department of Social Services to administer the Medicaid program.
- 2. Uniform Policy Manual ("UPM") Section 5000.01 provides the following definitions:

**Available income** is all income from which the assistance unit is considered to benefit, either through actual receipt or by having the income deemed to exist for its benefit.

**Applied income** is that portion of the assistance unit's countable income that remains after all deductions and disregards are subtracted.

**Counted income** is that income which remains after excluded income is subtracted from the total of available income.

**Deductions** are those amounts which are subtracted as adjustments to counted income and which represent expenses paid by the assistance unit.

**Disregards** are those amounts which are subtracted as standard adjustments to countable income and which do not represent expenses paid by the assistance unit.

**Gross unearned income** is the total amount of counted unearned income before disregards are subtracted from it.

**Unearned income** is income which does not constitute compensation for work or services performed or business conducted and includes returns from capital investments when the individual is not actively involved in the production of the income.

- UPM Section 5005.C provides that the Department computes applied income by subtracting certain disregards and deductions, as described in this section, from counted income.
- 4. UPM Section 5005.D provides that the Department uses the assistance unit's applied income to determine income eligibility and to calculate the amount of benefits.
- 5. UPM Section 5035.20.B provides that the following monthly deductions are allowed from the income of assistance units in LTCF's:

- 1. for veterans whose VA pension has been reduced to \$90.00 pursuant to P.L. 101-508, and for spouses of deceased veterans whose pension has been similarly reduced pursuant to P.L. 101-508, as amended by Section 601 (d) of P.L. 102-568, a personal needs allowance equal to the amount of their VA pension and the personal needs allowance described in 2. below:
- a personal needs allowance of \$50.00 for all other assistance units, which, effective July 1, 1999 and annually thereafter, shall be increased to reflect the annual cost of living adjustment used by the Social Security Administration:
- 3. an amount of income diverted to meet the needs of a family member who is in a community home to the extent of increasing his or her income to the MNIL which corresponds to the size of the family;
- 4. Medicare and other health insurance premiums, deductibles, and coinsurance costs when not paid for by Medicaid or any other third party;
- costs for medical treatment approved by a physician which are incurred subsequent to the effective date of eligibility and which are not covered by Medicaid;
- 6. expenses for services provided by a licensed medical provider in the six month period immediately preceding the first month of eligibility providing the following conditions are met:
  - a. the expenses were not for LTCF services, services provided by a medical institution equivalent to those provided in a long term care facility, or home and community-based services, when any of these services were incurred during a penalty period resulting from an improper transfer of assets; and
  - b. the recipient is currently liable for the expenses; and
  - c. the services are not covered by Medicaid in a prior period of eligibility.
- 7. the cost of maintaining a home in the community for the assistance unit, subject to the following conditions:
  - a. the amount is not deducted for more than six months; and
  - b. the likelihood of the institutionalized individual's returning to the community within six months is certified by a physician; and

- c. the amount deducted is the lower of either:
  - the amount the unit member was obligated to pay each month in his or her former community arrangement; or
  - (2) \$650 per month if the arrangement was Level 1 Housing; or
  - (3) \$400 per month if the arrangement was Level 2 Housing; and
- d. the amount deducted includes the following:
  - (1) heat
  - (2) hot water
  - (3) electricity
  - (4) cooking fuel
  - (5) water
  - (6) laundry
  - (7) property taxes
  - (8) interest on the mortgage
  - (9) fire insurance premiums
  - (10) amortization
- 6. Conn. Gen. Stat. § 17b-272. (Formerly Sec. 17-134m). Personal fund allowance. Effective July 1, 2011, the Commissioner of Social Services shall permit patients residing in nursing homes, chronic disease hospitals and state humane institutions who are medical assistance recipients under sections 17b-260 to 17b-262, inclusive, 17b-264 to 17b-285, inclusive, and 17b-357 to 17b-361, inclusive, to have a monthly personal fund allowance of sixty dollars.
- 7. The Department correctly determined the Appellant was eligible for the six (6) month deduction of the cost of maintaining a home in the community.
- 8. The Department correctly determined the Appellant was eligible for the maximum deduction of \$650.00.
- 9. The Department correctly calculated the Appellant's applied income amount of \$101.00 with the rental diversion deduction for the period of 2018, 2018.

10. The Department correctly removed the Appellant's \$650.00 deduction effective for 2019 as she received the maximum months (6 months) allowed for the rental diversion.
11. The Department correctly calculated the Appellant's applied income amount of \$751.00 (\$811.00 - \$60.00 Personal Needs Allowance = \$751.00) effective for 2019.
DISCUSSION
The Department can allow only a maximum six (6) deduction for the rental diversion. The Appellant received the diversion for the period of 2018 through 2018. The Appellant is receiving the \$60.00 Personal Needs Allowance deduction. The expenses her Representatives stated at the hearing are not allowable deductions. The Department's deductions for Long Term Care Medicaid are limited to the criteria set forth in the Department's policy.
DECISION
The Appellant's appeal is denied
Miklos Mencseli Hearing Officer

C: Carol Sue Shannon, Operations Manager, Danbury #31

#### 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 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.