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

2019 Signature Confirmation

Client ID # Request # 143228

# **NOTICE OF DECISION**

## **PARTY**

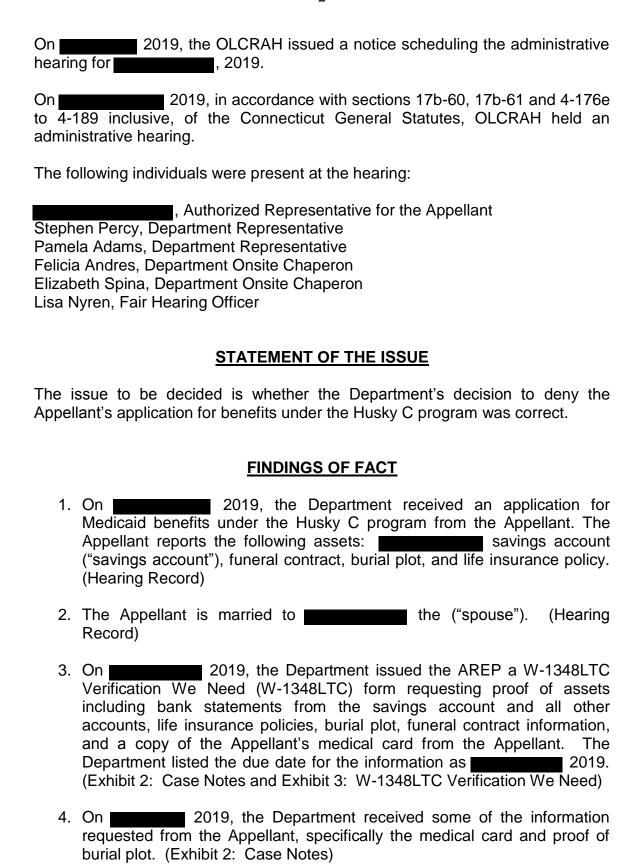


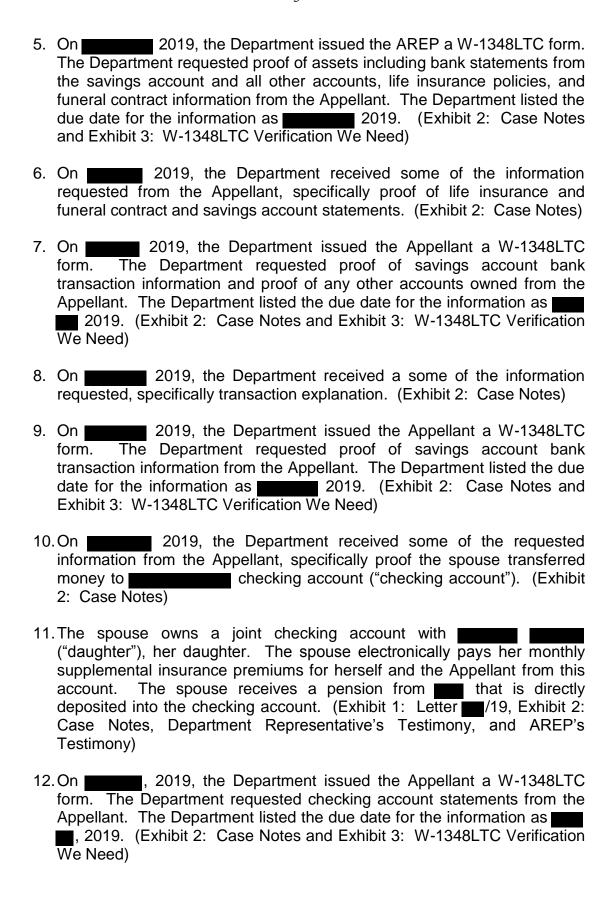
hearing for 2019.

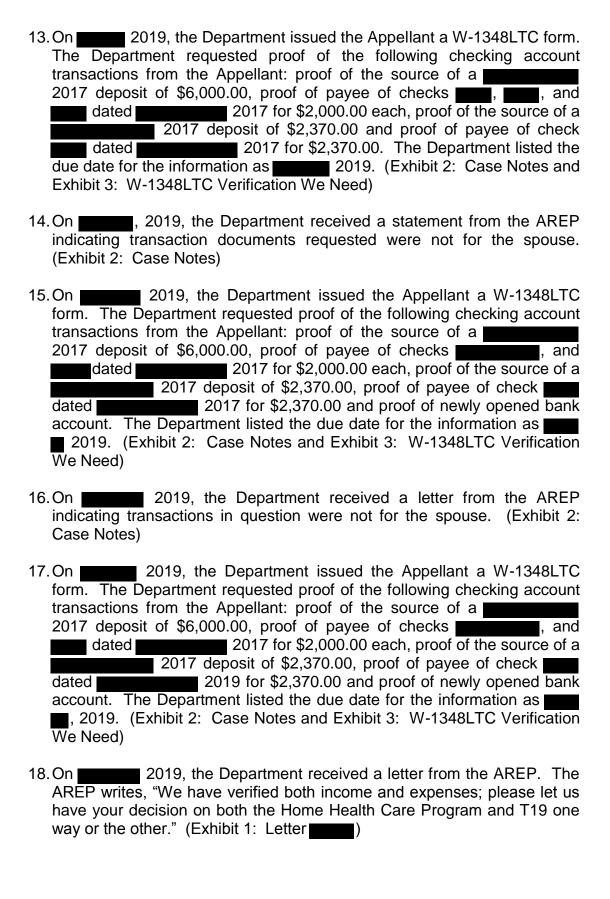
# PROCEDURAL BACKGROUND

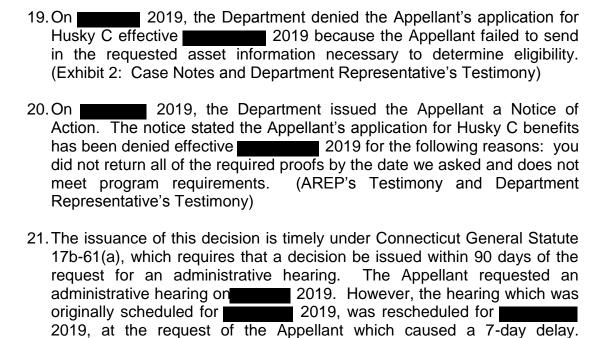
On 2019, the Department of Social Services (the "Department") sent
application for benefits under the Husky C – Connecticut Home Care for Elders Program ("Husky C") effective 2019.
On 2019, ("AREP"), the authorized representative for the Appellant, requested an administrative hearing to contest the Department's decision to deny such benefits.
On 6, 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for 2019.
On 2019, the AREP requested a continuance to correct the issue of the hearing. The OLCRAH granted the request for continuance.
On 2019, the OLCRAH issued a notice scheduling the administrative

On 2019, the Department requested a continuance which OLCRAH granted.









# **CONCLUSIONS OF LAW**

decision is not due until 2019, and therefore timely.

1. Section 17b-2(6) of the Connecticut General Statutes ("Conn. Gen. Stats.") provides that the Department of Social Services is designated as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.

Because this 7-day delay resulted from the Appellant's request, this

- 2. "The Department of Social Services shall be the sole agency to determine eligibility for assistance and services under programs operated and administered by said department." Conn. Gen. Stats. § 17b-261b(a)
- 3. "The department's uniform policy manual is the equivalent of a state regulation and, as such, carries the force of law." *Bucchere v. Rowe*, 43 Conn. Supp. 175, 178 (1994) (citing Conn. Gen. Stat, § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A.2d 712(1990))
- 4. "The application process is all activity related to the exploration, investigation and disposition of an application beginning with the filing of an assistance request and ending with the disposition of the application." Uniform Policy Manual ("UPM") § 1500.01

"The application process outlines the general methods and requirements used in obtaining assistance and in determining an assistance unit's initial

eligibility. The application process is essentially the same for all programs. It is designed to provide aid in a prompt and efficient manner to those who request assistance." UPM § 1505

5. "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)

"The Department must tell the assistance unit what the unit has to do to establish eligibility when the Department does not have sufficient information to make an eligibility determination." UPM § 1015.05(C)

6. "The assistance unit must verify its equity in counted assets." UPM § 4099.05(A)(1)

The assistance unit must verify the following for the Department to evaluate each asset held by the assistance unit. This list is not necessarily all-inclusive.

- 1. The asset's legal owner, if there is a question of ownership, as described in 4010; and
- 2. The asset's status as either inaccessible, or excluded, if there is a question, as described in 4015 and 4020, respectively; and
- 3. The amount of equity the assistance unit has in the asset; and
- 4. The amount of equity in counted assets to be deemed available to the unit, as described in 4025.

UPM § 4099.30(A)

"If the assistance unit is the record owner of an asset, the unit is considered the legal owner unless it establishes otherwise, with clear and convincing evidence." UPM § 4010.05

"The assistance unit must verify that it has properly reduced its equity in counted assets to within the program's limit." UPM § 4099.05(B)(1)

"This chapter describes the technical eligibility requirement in the Medicaid program pertaining to the transfer of an asset for less than fair market value. The policy material in this chapter pertains to transfers that occur on or after February 8, 2006." UPM § 3029

"The Department uses the policy contained in this chapter to evaluate asset transfers, including the establishment of certain trusts and annuities, if the transfer occurred, or the trust or annuity was established on or after February 8, 2006." UPM § 3029.03

"The look-back date for transfers of assets is a date that is 60 months before the first date on which both the following conditions exist:

- 1. The individual is institutionalized; and
- 2. The individual is either applying for or receiving Medicaid." UPM § 3029.05
- 7. The Department correctly issued the Appellant a W1348 Proofs We Need form requesting asset information needed to determine eligibility under the Husky C program.
- 8. "The assistance unit, but the act of applying for or receiving benefits, assumes certain responsibilities in its relations with the Department. This chapter describes those responsibilities which an assistance unit assumes when it applies for or receives benefits from the Department." UPM § 1010
- 9. "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 calculated the amount of benefits (cross reference: 1555)." UPM § 1010.05(A)(1)

"The assistance unit must satisfy certain procedural requirements as described in Section 3500, including: taking steps as required by the Department to complete the eligibility determination." UPM § 1010.05(C)(6)(a)

"As a condition of eligibility, members of the assistance unit are required to cooperate in the initial application process and in reviews, including those generated by reported changes, redeterminations and Quality Control. (Cross reference: Eligibility Process 1500)" UPM § 3525.05

"Applicants are responsible for cooperating with the Department in completing the application process by:

- a. Fully completing and signing the application form; and
- b. Responding to a scheduled appointment for an interview; and
- c. Providing and verifying information as required."

UPM § 3525.05(A)(1)

10. "The applicants failure to provide required verification by the processing date causes: one or more members of the assistance unit to be ineligible if the unverified circumstance is a condition of eligibility." UPM § 1505.40(B)(1)(c)(1)

"An application is denied when an applicant refuses to cooperate with the Department." UPM § 3525.05(B)(1)(a)

"The following provisions apply if subsequent to an administrative delay the applicant becomes responsible for not completing the application process: for AFDC, AABD, and MA applications, the Department: determines eligibility without further delay." UPM § 1505.40(B)(3)(a)(1)

- 11.On 2019, the Department correctly denied the Appellant's application for medical benefits under the Husky C program effective 2019 because the Appellant failed to provide the Department with the requested information necessary to make a determination of eligibility.
- 12. "The Department must send the assistance unit a notice regarding the Department's determination of the unit's initial eligibility, and, subject to conditions described in Section 1570, adequate notice before taking action to change the unit's eligibility status or the amount of benefits." UPM § 1015.10(C)
- 13. The Department correctly issued a notice of denial to the Appellant informing the Appellant the Department denied his application for medical benefits under the Husky C program effective 2019.

# **DECISION**

The Appellant's appeal is denied.

Lisa A. Nyren Fair Hearing Officer

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CC: |

Rachel Anderson, DSS RO #20 Cheryl Stuart, DSS RO #20 Lisa Wells, DSS RO #20 Stephen Percy, DSS CO Pamela Adams, DSS CO

## 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.