

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

Case Number: ██████████
Request # 146377

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████ 2019, the Department of Social Services (the “Department”) issued ██████████ (the “Appellant”) a Notice of Action (“notice”). The notice stated the Department will impose a penalty period of ineligibility for the improper transfer of assets under the Husky C – Individual Receiving Home and Community Based Services Program (“Husky C”) and deny medical coverage under the Husky C effective ██████████ 2019.

On ██████████ 2019, ██████████, (the “Attorney”), Attorney for the Appellant, on behalf of the Appellant, requested an administrative hearing to contest the Department’s decision to impose a transfer of asset penalty under Husky C.

On ██████████ ██████████ 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative 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 an administrative hearing.

The following individuals were present at the hearing:

██████████, Attorney at Law, Attorney for the Appellant
 Liza Morais, Department Representative
 Victor Robles, Department Representative
 Linda Guliuzza, Department Staff Attorney
 Jennifer Zakrzewski, Department Paralegal
 Lisa Nyren, Fair Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly determined the Appellant transferred \$573,083.00 to become eligible for Medicaid.

A secondary issue to be decided is whether the transfer subjected the Appellant to a penalty period of ineligibility for Medicaid payment of long-term care services.

FINDINGS OF FACT

1. The Appellant is married to ██████████ (the "spouse"). The spouse is power of attorney for the Appellant. (Exhibit 1: W-1 LTC Long-term Care/Waiver Application)
2. The Appellant and the spouse have two children together: ██████████ ██████████ (the "son") and ██████████ (the "daughter"). (Hearing Record)
3. The Appellant and spouse resided in ██████████ before moving to ██████████. The Appellant and spouse own a condominium (the "condominium") in ██████████ valued at \$132,833.00. (Exhibit 1: W-1LTC Long-term Care/Waiver Application, Exhibit 2: Warranty Deed, and Exhibit 14: W495 Notice of Possible Improper Transfer of Assets)
4. On ██████████ 2019, the Department received an application for Husky C from the spouse on behalf of the Appellant. (Exhibit 1: W-1 LTC Long-term Care/Waiver Application)
5. The Department determined the look-back period under Medicaid for the Appellant as ██████████ ██████████ 2014 through ██████████ ██████████ 2019. (Department Representative's Testimony)
6. In ██████████ 1982, the Appellant and his spouse purchased real estate located at ██████████ ██████████ ██████████ ██████████ ██████████ (the "commercial

property”). (Exhibit 3: Warranty Deed, Exhibit 4: Quit-Claim Deed, Exhibits 5 – 9, 11: Commercial Property Tax Returns 2013 - 2018)

7. On [REDACTED] 2007, an operating agreement (the “agreement”) was created for a Connecticut limited liability company known as [REDACTED], [REDACTED] (the “LLC”). Article II Formation of Company, Section 2.1 Formation notes: “The Company was formed as a limited liability company under the Connecticut Act by the filing of its Articles of Organization with the Secretary of the State of [REDACTED] on [blank].” Article IV references names and addresses of members. “The names and addresses of the initial members are as set forth on Exhibit B attached hereto and incorporated herein by reference.” Exhibit B lists the members of the LLC as the Appellant, the spouse, the son, and the daughter. Article VIII Allocations, Income Tax and Distributions, Section 8.1 of the agreement refers to “Allocations of Profits and Losses. The net profits and net losses of the company for each fiscal year will be allocated to the Members in the manner determined by the Members to reasonably reflect the Members’ interests in accordance with the percentage allocations set forth in Exhibit C attached hereto and in compliance with applicable tax law.” Exhibit C lists company interests as twenty-five percent (25%) for all members: the Appellant, the spouse, the son, and the daughter. The operating agreement is unsigned by the LLC’s members and void of a filing date with the Office of the Secretary of the State. (Exhibit 4A: Operating Agreement)
8. On [REDACTED] 2007, the Appellant and the spouse quit claimed the commercial property to the LLC. (Exhibit 4: Quit-Claim Deed and Exhibit 13: Assessor Card)
9. On [REDACTED] 2007, the Department of Revenue Services (“DRS”) registered the LLC as a business entity with a tax liability start date of [REDACTED], 2007 listing the owners of the LLC as the Appellant, the spouse, and the son. (Exhibit D: Department of Revenue Services Tax Document)
10. In 2013, the LLC filed tax form 1065 U.S. Return of Partnership Income (“1065”) with the Department of Treasury Internal Revenue Service (“IRS”). The Appellant declared an interest of 50% or more in the profit, loss, or capital of the partnership under Schedule B question 3 b and attached form Schedule B-1 Information on Partners Owning 50% or more of the Partnership (“B-1) to the tax return. B-1 lists the Appellant and spouse as the individuals owning 50% or more in the profit, loss, or capital of the LLC. 2013 Schedule K-1 forms, Partner’s Share of Income, Deductions, Credits etc. (“K-1”), were filed for the Appellant and spouse listing their share of profit/loss/capital as 50% each. The tax return did not include K-1 forms for the daughter or son. Schedule K-1 Summary

Worksheet lists two partners: the Appellant and spouse. (Exhibit 5: 2013 Tax Return)

11. In 2014, the LLC filed tax form 1065 with the IRS. The Appellant declared an interest of 50% or more in the profit, loss, or capital of the partnership under Schedule B question 3 b and attached form B-1 to the tax return. B-1 lists the Appellant and spouse as the individuals owning 50% or more in the profit, loss, or capital of the partnership. 2014 K-1 forms were filed for the Appellant and spouse listing their share of profit/loss/capital as 50% each. The tax return did not include K-1 forms for the daughter or son. (Exhibit 6: 2014 Tax Return)
12. In 2015, the LLC filed tax form 1065 with the IRS. The Appellant declared an interest of 50% or more in the profit, loss, or capital of the partnership under Schedule B question 3 b and attached form B-1 to the tax return. B-1 lists the Appellant and spouse as the individuals owning 50% or more in the profit, loss, or capital of the partnership. 2015 K-1 forms were filed for the Appellant and spouse listing their share of profit/loss/capital as 50% each. The tax return did not include K-1 forms for the daughter or son. (Exhibit 7: 2014 Tax Return)
13. In 2016, the LLC filed tax form 1065 with the IRS. The Appellant declared an interest of 50% or more in the profit, loss, or capital of the partnership under Schedule B question 3 b and attached form B-1 to the tax return. B-1 lists the Appellant and spouse as the individuals owning 50% or more in the profit, loss, or capital of the partnership. 2016 K-1 forms were filed for the Appellant and spouse listing their share of profit/loss/capital as 50% each. The tax return did not include K-1 forms for the daughter or son. (Exhibit 8: 2016 Tax Return)
14. On ██████████ 2016, the Appellant and the spouse transferred ownership of the condominium, with a life estate interest, valued at \$132,833.00 for \$10.00 to the son and daughter. (Exhibit 1: W-1LTC Long-term Care/Waiver Application, Exhibit 2: Warranty Deed, and Exhibit 14: W495A Notice of Possible Improper Transfer of Assets)
15. In 2017, the LLC filed tax form 1065 with the IRS. The Appellant declared an interest of 50% or more in the profit, loss, or capital of the partnership under Schedule B question 3 b and attached form B-1 to the tax return. B-1 lists the Appellant and spouse as the individuals owning 50% or more in the profit, loss, or capital of the partnership. 2017 K-1 forms were filed for the Appellant and spouse listing their share of profit/loss/capital as 50% each. The tax return did not include K-1 forms for the daughter or son. (Exhibit 9: 2017 Tax Return)

16. On [REDACTED] 2018, the Appellant assigned his interest in the LLC to the spouse. (Exhibit 10: Assignment of Interest)
17. In 2018, the LLC filed tax form 1065 with the IRS. The Appellant declared an interest of 50% or more in the profit, loss, or capital of the partnership under Schedule B question 3 b and attached form B-1 to the tax return. B-1 lists the Appellant, spouse, son, and daughter as the individuals owning 50% or more in the profit, loss, or capital of the partnership. 2018 K-1 forms were filed for the Appellant, spouse, son, and daughter. The Appellant and spouse K-1 forms list a reduction in their profit/loss/capital share from 50% at the beginning of the year to 25% by the end of the year. The son and daughter K-1 forms list an increase in their profit/loss/capital share from 00% to 25%. (Exhibit 11: 2018 Tax Return)
18. The Department determined the Appellant improperly transferred ownership in the LLC in the amount of \$440,250.00 on [REDACTED] 2018. The Department determined the fair market value of the LLC as \$880,500.00 based on the town's Property Listing Report total appraised value. The Department determined the Appellant improperly transferred one half of the ownership of the LLC in [REDACTED] 2018 based on the LLC's taxes filed in 2018 changing the partner's share of profit, loss, and capital from 50% to 25% for himself and his spouse. (Hearing Record)
19. The Department determined the Appellant improperly transferred ownership of the condominium to the son and daughter for no consideration reserving life use for the Appellant and the spouse. (Hearing Record)
20. On [REDACTED] 2019, the Department issued a W495A Notice of Possible Improper Transfer of Assets Notice to the Appellant regarding the transfer of assets. The Department determined the Appellant improperly transferred ownership in the LLC in the amount of \$440,250.00 on [REDACTED] 2018 and improperly transferred the condominium valued at \$132,833.00 on [REDACTED] 2016. The notice stated you transferred assets that affect eligibility and you have not given us proof that the transfer was not made for the purpose of qualifying for assistance. The Department proposes to impose a penalty period for the transfer. The Department allowed the Appellant 15 days to respond to the penalty proposal and provide the Department with proof that the transfer was not to become eligible for medical assistance. (Exhibit 14: Notice of Possible Improper Transfer of Assets)
21. On [REDACTED] 2019, the Attorney's office submitted a response to the Department via email seeking clarification regarding the imposition of a penalty indicating the LLC would file an amended 2018 tax return and the condominium would be returned and listed for sale. (Exhibit 15: Email)

22. The Department determined the Appellant ineligible for Husky C due to the imposition of a \$573,083.00 transfer of asset penalty beginning [REDACTED] 2019 and ending on [REDACTED] 2023. $\$13,143.00$ average cost of care per month x 12 months = $\$157,716.00$ annual cost / 365 days per year = $\$432.09$ daily rate $\$573,083.00 / 432.09 = 1,326.30$ days (Exhibit 16: Notice of Action and Department Representative's Testimony)
23. On [REDACTED] 2019, the Department issued the Appellant a Notice of Action. The Department determined the Appellant ineligible for Husky C for the reasons "you gave assets to someone in order to get benefits and does not meet program requirements." The Department determined the Appellant subject to a penalty period beginning [REDACTED] 2019 ending [REDACTED] 2023 for the improper transfer of the LLC and condominium totaling \$573,083.00. (Exhibit 16: Notice of Action, Exhibit 14: Notice of Possible Improper Transfer of Assets, Exhibit 1: W-1LTC Long-term Care/Waiver Application, Exhibit 2: Warranty Deed, and Exhibits 5 – 9, 11: Commercial Property Tax Returns 2013 – 2018)
24. The Department determined the Appellant eligible for Medicaid under the Husky C – Medically Needy Aged, Blind, Disabled – spenddown program ("spenddown") effective May 1, 2019. (Exhibit 16: Notice of Action)
25. The Appellant accepts the transfer of asset penalty totaling \$ 132,833.00 due to the sale of the condominium for \$10.00 on [REDACTED], 2016 to his son and daughter. (Attorney's Testimony)
26. The issuance of this decision is timely under Connecticut General Statutes § 17b-61(a), which requires that a decision be issued within 90 days of the request for an administrative hearing. The Attorney requested an administrative hearing on September 19, 2019 on behalf of the Appellant. Therefore, this decision is due not later than December 18, 2019.

CONCLUSIONS OF LAW

1. Connecticut General Statute ("Conn. Gen. Stat.") § 17b-2(6) 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."
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. State statute provides as follows:

Medical assistance shall be provided for any otherwise eligible person whose income, including any available support from legally liable relatives and the income of the person's spouse or dependent child, is not more than one hundred forty-three per cent, pending approval of a federal waiver applied for pursuant to subsection (e) of this section, of the benefit amount paid to a person with no income under the temporary family assistance program in the appropriate region of residence and if such person is an institutionalized individual as defined in Section 1917 of the Social Security Act, 42 USC 1396p(h)(3), and has not made an assignment or transfer or other disposition of property for less than fair market value for the purpose of establishing eligibility for benefits or assistance under this section. Any such disposition shall be treated in accordance with Section 1917(c) of the Social Security Act, 42 USC 1396p(c). 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. A disposition of property ordered by a court shall be evaluated in accordance with the standards applied to any other such disposition for the purpose of determining eligibility. The commissioner shall establish the standards for eligibility for medical assistance at one hundred forty-three per cent of the benefit amount paid to a household of equal size with no income under the temporary family assistance program in the appropriate region of residence. In determining eligibility, the commissioner shall not consider as income Aid and Attendance pension benefits granted to a veteran, as defined in section 27-103, or the surviving spouse of such veteran. Except as provided in section 17b-277 and section 17b-292, the medical assistance program shall provide coverage to persons under the age of nineteen with household income up to one hundred ninety-six per cent of the federal poverty level without an asset limit and to persons under the age of nineteen, who qualify for coverage under Section 1931 of the Social Security Act, with household income not exceeding one hundred ninety-six per cent of the federal poverty level without an asset limit, and their parents and needy caretaker relatives, who qualify for coverage under Section 1931 of the Social Security Act, with household income not exceeding one hundred fifty per cent of the federal poverty level without an asset limit. Such levels shall be based on the regional differences in such benefit amount, if applicable, unless such levels based on regional differences are not in conformance with federal law. Any income in excess of the applicable amounts shall be applied as may be required by said federal law, and assistance shall be granted for the balance of the cost of authorized medical assistance. The Commissioner of Social Services shall provide applicants for assistance under this section, at the time of application, with a written statement advising them of (1) the effect of an

assignment or transfer or other disposition of property on eligibility for benefits or assistance, (2) the effect that having income that exceeds the limits prescribed in this subsection will have with respect to program eligibility, and (3) the availability of, and eligibility for, services provided by the Nurturing Families Network established pursuant to section 17b-751b. For coverage dates on or after January 1, 2014, the department shall use the modified adjusted gross income financial eligibility rules set forth in Section 1902(e)(14) of the Social Security Act and the implementing regulations to determine eligibility for HUSKY A, HUSKY B and HUSKY D applicants, as defined in section 17b-290. Persons who are determined ineligible for assistance pursuant to this section shall be provided a written statement notifying such persons of their ineligibility and advising such persons of their potential eligibility for one of the other insurance affordability programs as defined in 42 CFR 435.4.

Conn. Gen. Stat. § 17b-261(a)

4. State statute provides as follows:

Any transfer or assignment of assets resulting in the imposition of a penalty period shall be presumed to be made with the intent, on the part of the transferor or the transferee, to enable the transferor to obtain or maintain eligibility for medical assistance. This presumption may be rebutted only by clear and convincing evidence that the transferor's eligibility or potential eligibility for medical assistance was not a basis for the transfer or assignment.

Conn. Gen. Stat. § 17b-261a(a)

5. State statute provides as follows:

Any transfer or assignment of assets resulting in the establishment or imposition of a penalty period shall create a debt, as defined in section 36a-645, that shall be due and owing by the transferor or transferee to the Department of Social Services in an amount equal to the amount of the medical assistance provided to or on behalf of the transferor on or after the date of the transfer of assets, but said amount shall not exceed the fair market value of the assets at the time of transfer. The Commissioner of Social Services, the Commissioner of Administrative Services and the Attorney General shall have the power or authority to seek administrative, legal or equitable relief as provided by other statutes or by common law.

Conn. Gen. Stat. § 17b-261a(b)

6. State statute provides as follows:

For purposes of this subsection, an “institutionalized individual” means an individual who has applied for or is receiving (A) services from a long-term care facility, (B) services from a medical institution that are equivalent to those services provided in a long-term care facility, or (C) home and community-based services under a Medicaid waiver.

Conn. Gen. Stats. § 17b-261a(d)(1))

7. “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))
8. Section 3029 of the Uniform Policy Manual (“UPM”) provides in part that “this chapter describes the technical eligibility requirements 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.”
9. “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
10. “The policy contained in this chapter pertains to institutionalized individuals and to their spouses.” UPM § 3029.05(B)(1)

“An individual is considered institutionalized if he or she is receiving: home and community-based services under a Medicaid waiver (cross references: 2540.64 and 2540.92).” UPM § 3029.05(B)(2)(c)

11. Department policy provides as follows:

The Department considers transfers of assets made within the time limits described in 3029.05C, on behalf of an institutionalized individual or his or her spouse by a guardian, conservator, person having power of attorney or other person or entity so authorized by law, to have been made by the individual or spouse.

UPM § 3029.05(D)(1)

12. Department policy provides as follows:

There is a period established, subject to the conditions described in this chapter, during which institutionalized individuals are not eligible for

certain Medicaid services when they or their spouses dispose of assets for less than fair market value on or after the look-back date specified in 3029.05 C. This period is called the penalty period, or period of ineligibility.

UPM § 3029.05(A)

13. Department policy provides as follows:

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(C)

14. The Department correctly established the look back period as █████ 2014 through █████ 2019 because the Appellant applied for Medicaid on █████ 2019 and meets the institutionalization criteria under the home and community-based services waiver program.

15. “An institutionalized individual, or his or her spouse, may transfer an asset without penalty if the individual provides clear and convincing evidence that he or she intended to dispose of the asset at fair market value.” UPM § 3029.10(F)

16. “Prior to denial or discontinuance of LTC Medicaid benefits, the Department notifies the individual and his or her spouse of its preliminary decision that a transfer of an asset is determined to have been improper.” UPM § 3029.35(A)(1)

“The notification includes a clear explanation of both:

- a. The reason for the decision; and
- b. The right of the individual or his or her spouse to rebut the issue within ten days.” UPM § 3029.35(A)(2)

17. Department policy provides as follows:

An institutionalized individual, or his or her spouse, who is notified of the Department’s determination that an asset transfer was improper, has ten days from the date of the notice to rebut this determination prior to the implementation of the negative action. The Department may grant an extension if the individual so requests and the request is reasonable.

UPM § 3029.35(B)(1)

Rebuttal must include:

- a. A statement from the individual or his or her spouse as to the reason for the transfer; and
- b. Objective evidence, which is:
 1. Evidence which rational people agree is real or valid; and
 2. Documentary or non-documentary.

UPM § 3029.35(B)(2)

18. "If the individual rebuts the Department's preliminary decision to impose a penalty period, the Department has ten days from the receipt of the rebuttal to send an interim notice to the individual stating that it is either upholding or reversing its preliminary decision." UPM § 3029.35(C)(2)

19. Department policy provides as follows:

The notification described 3029.35(C)(2) informs the individual that:

- a. The Department is reversing its preliminary decision, and is not imposing a penalty period with respect to LTC services; or
- b. The Department's preliminary decision is upheld, and a penalty period is being established, during which Medicaid will not pay for LTC services.

UPM § 3029.35(C)(3)

20. "The Department sends a final decision notice regarding the rebuttal issue at the time of the mailing of the notice regarding the disposition of the Medicaid application." UPM § 3029.35(C)(4)

21. The Department correctly determined the Appellant improperly transferred fifty percent (50%) ownership in the LLC in 2018. Based on a DRS tax document, the original LLC and tax liability start date of [REDACTED], 2007 lists three owners: the Appellant, the spouse, and the son. The tax document fails to list the daughter as an owner. Based on the LLC's tax returns, the son and the daughter are not listed as owners in the LLC until the LLC tax return is filed in 2018. Tax returns filed for 2013 through 2017 with the Internal Revenue Service list the LLC owners as the Appellant and the spouse. The LLC operating agreement dated prior to the registration of the LLC with the DRS fails to validate the date the Articles of Organization were filed with the Secretary of State. In addition the agreement lists four members: the Appellant, the spouse, the son and the daughter which differs from the DRS tax document filed on [REDACTED] 2017. The agreement lists allocations, income tax and distributions to the members to "reasonably reflect the Members' interests in accordance with

the percentage allocations set forth in Exhibit C.” The agreement supports equal distribution of twenty-five percent to the Appellant, the spouse, the son, and the daughter; however tax documents filed in 2013, 2014, 2015, 2016, and 2017 show the distribution of LLC funds to the Appellant and the spouse at 50% each, excluding the son and the daughter until 2018. The agreement does not address special allocations. The agreement cannot be validated. Additionally, the Articles of Organization of the LLC lists two members, the Appellant and the spouse but references Schedule A for additional members. Schedule A is not included with the Articles of Organization and the document fails to contain any date confirming its execution with the Secretary of State. Evidence suggests ownership in the LLC changed since its inception in 2007 and for the period 2013 through 2017, the Appellant and his spouse owned 100% of the LLC until the Appellant and the spouse transferred a portion of their ownership in 2018 to their son and daughter. The Department correctly determined the amount of the transfer as \$440,250.00.

22. The Department correctly determined the Appellant improperly transferred the condominium to the son and daughter for \$10.00. The Department valued the condominium as \$132,833.00.
23. The Department correctly determined the Appellant transferred assets totaling \$573,083.00. The attorney, on behalf of the Appellant, failed to provide clear and convincing evidence that the reason for the transfers totaling \$573,083.00 were not for qualifying for assistance under Medicaid and that the Appellant intended to dispose of the assets at fair market value. (\$440,250.00 LLC + \$132,833.00 condominium = \$573,083.00)
24. The Department correctly determined the Appellant is subject to a transfer of asset penalty.
25. The Department correctly imposed a transfer of assets penalty against the Appellant’s Husky C due to the transfer of assets.
26. “The length of the penalty period consists of the number of whole and/or partial months resulting from the computation described in § 3029.05(F)(2).” UPM § 3029.05(F)(1)
27. UPM § 3029.05(F)(2) provides that the length of the penalty period is determined by dividing the total uncompensated value of all assets transferred on or after the look-back date described in § 3029.05(C) by the average monthly cost to a private patient for LTCF services in Connecticut.
 - a. For applicants, the average monthly cost of LTCF services is based on the figure as of the month of application.

Effective [REDACTED] 2018, the average cost of care is \$12,851.00.

28. The Department correctly determined the average cost of care for [REDACTED] 2019, the month of application, as \$12,851.00.

29. Department policy provides as follows:

The penalty period begins as of the later of the following dates:

1. The first day of the month during which assets are transferred for less than fair market value, if this month is not part of any other period of ineligibility caused by a transfer of assets;
2. The date on which the individual is eligible for Medicaid under Connecticut's State Plan and would otherwise be eligible for Medicaid payment of the LTC services described in 3029.05 B based on an approved application for such care but for the application of the penalty period, and which is not part of any other period of ineligibility caused by a transfer of assets.

UPM § 3029.05(E)

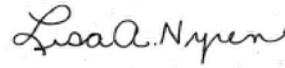
30. The Department correctly determined the penalty period as 1,356 days beginning [REDACTED], 2019 ending [REDACTED] 2023.

\$12,851.00 average cost of care x 12 months = \$154,212.00 annualized
 \$154,212.00 annual average cost of care / 365 days/year = \$422.49863
 average daily rate
 \$573,083.00 Transfer of assets / \$422.50 average cost of care daily rate =
 1,356.4094 total transfer of asset penalty days
 Penalty start date [REDACTED] 2019 + 1,356 days = [REDACTED] 2023
 penalty end date

DECISION

The Appellant's appeal with regards to whether or not he transferred \$573,083.00 to become eligible for Medicaid is denied.

The Appellant's appeal with regards to whether the transfer subjected the Appellant to a period of ineligibility for Medicaid payments of LTC services is denied.



Lisa A. Nyren
Fair Hearing Officer

CC: Musa Mohamud, DSS RO #10
Judy Williams, DSS RO #10
Jessica Carroll, DSS RO #10
Jay Bartolomei, DSS RO #10
Linda Guliuzza, DSS CO
Liza Morais, DSS RO #10
Victor Robles, DSS RO #10

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 specific 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.