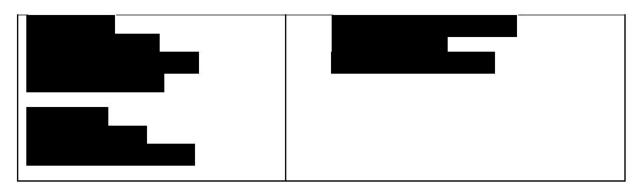
STATE OF CONNECTICUT DEPARTMENT OF SOCIAL SERVICES OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS 55 FARMINGTON AVENUE HARTFORD, CT 06105-3725

2020 Signature Confirmation

Case ID # Client ID Request ID # 150954

NOTICE OF DECISION

PARTY



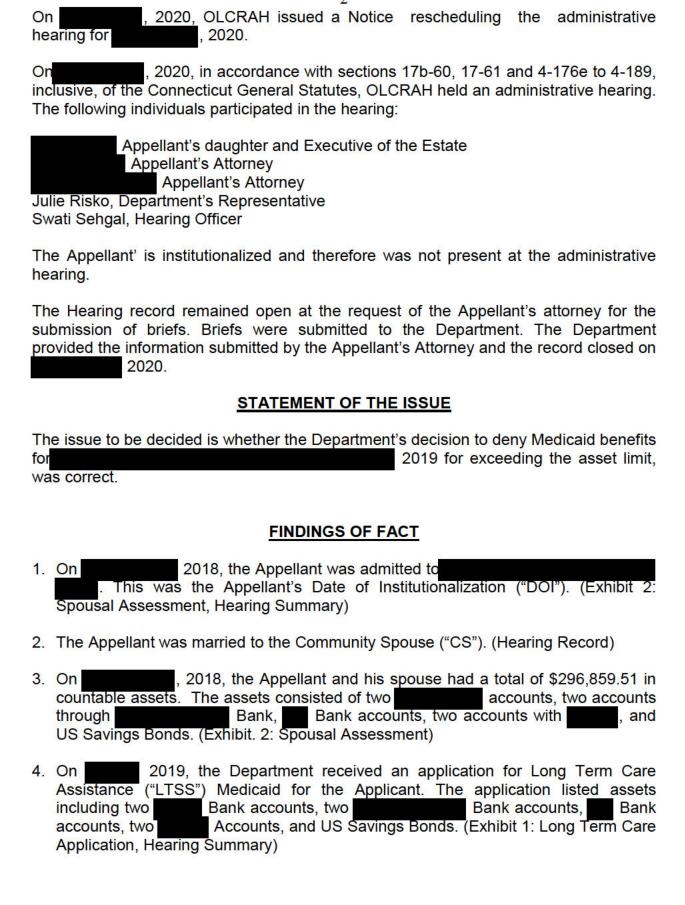
PROCEDURAL BACKGROUND

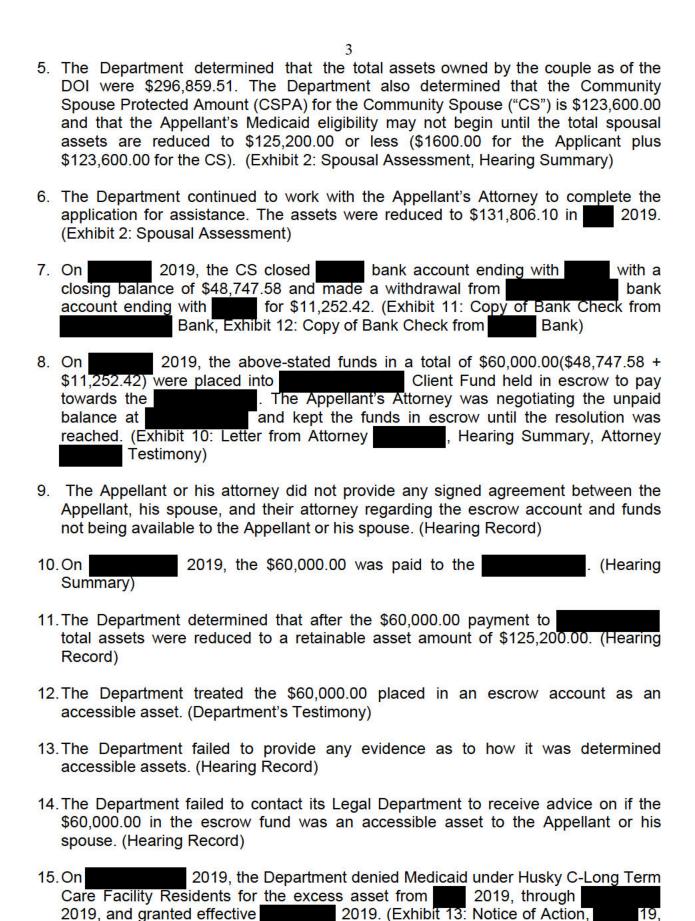
On 2019, the Department of Social Services (the "Department") sent (the "Appellant"), a Notice of Action ("NOA") granting Medicaid benefits effective 2019, and denying Medicaid benefits under Long Term care Facility Residents for 2019.

On 2020, the Appellant's Attorney requested an administrative hearing to contest the effective date of Medicaid benefits as determined by the Department.

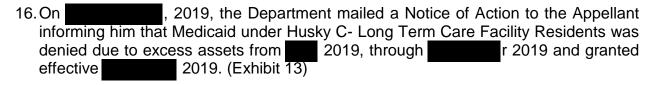
On 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice scheduling the administrative hearing for 2020.

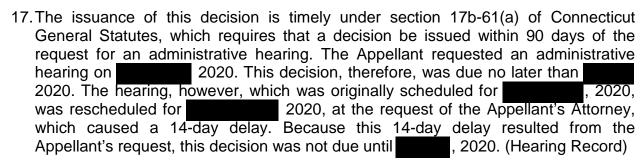
On 2020, the Appellant's attorney requested a reschedule.





Hearing Summary)





CONCLUSIONS OF LAW

- Section 17b-2 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.
- 2. Uniform Policy Manual ("UPM") § 4000.01 provides that an Institutionalized Spouse is defined as a spouse who resides in a medical facility or long term care facility, or who receives home and community-based services (CBS) under a Medicaid waiver, and who is legally married to someone who does not reside in such facilities or who does not receive such services; and provides that a Community Spouse is defined as an individual who resides in the community, who does not receive home and community-based services under a Medicaid waiver, who is married to an individual who resides in a medical facility or long term care facility or who receives home and community-based services (CBS) under a Medicaid waiver.
- 3. UPM § 1500.01 provides that MCCA Spouses are spouses who are members of a married couple one of whom becomes an institutionalized spouse on or after September 30, 1989, and the other spouse becomes a community spouse.
- 4. Effective 2018, the Applicant and his wife were MCCA Spouses as defined by the Medicaid program; the Applicant was an Institutionalized Spouse (IS) and her spouse was a Community Spouse (CS).
- 5. 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.
- 6. Section 17b-261(c) of the Connecticut General Statutes provides in part that to determine 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.

- 7. UPM § 4005.05 (A) 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.
- 8. UPM § 4005.10 provides that the Medicaid asset limit for a needs group of one is \$1,600.00 per month.
- 9. There is not enough evidence for this hearing officer to determine if the Department was correct to deny Medicaid under Husky C- Long Term Care from through r 2019 due to excess assets.

DISCUSSION

After reviewing the evidence and testimony presented, I find that sufficient information was not provided for this hearing officer to establish that funds in question were accessible. The Department's representative claimed that the Department's Public Assistance Consultant was contacted and the Department's representative was informed to treat those funds as accessible; however no evidence was provided.

DECISION

The Appellant's appeal is **REMANDED** to the Department.

ORDER

- 1. The Department shall seek guidance from its Legal Department to determine if the \$60,000.00 in the escrow account was accessible. Based on the guidance provided from the Legal Department the Department will determine eligibility from 2019 through 2019.
- The Department shall issue a new Notice informing the Appellant of the outcome of the reassessment providing the Appellant an opportunity to request for a hearing if he disagrees with the Department's new action.
- 3. Compliance with this order should be forwarded to undersigned no later than 2020.

Swati Sengal Hearing Officer

cc: Musa Mohamud, Operations Manager, Hartford Regional Office Judy Williams, Operations Manager, Hartford Regional office Jessica Carroll, Operations Manager, Hartford Regional office Julie Risko, Eligibility Services Worker, Waterbury 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 <u>what</u> error of fact or law, <u>what</u> new evidence, or <u>what</u> 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.