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# 153311	

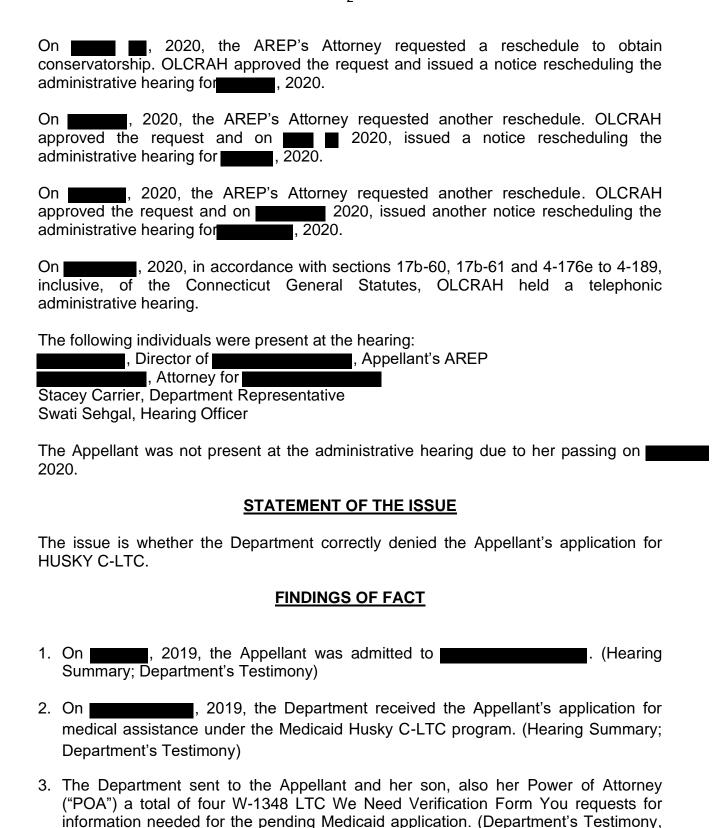
NOTICE OF DECISION

PARTY

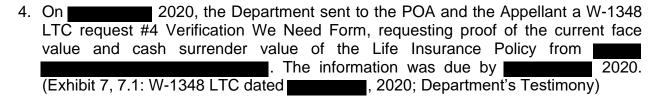


PROCEDURAL BACKGROUND

, 2020, the Department of Social	Services (the "Department") sent a notice
of action ("NOA") to the "Appella"	nt"), denying her application for medical
assistance under the Medicaid HUSKY C-Long	Term Care Facility Coverage ("HUSKY C-
LTC" benefits due to excess assets.	
On 2020, the ("AREP"), requested an administrative hearing deny the Applicant's application for HUSKY C-L	to contest the Department's decision to
On, 2020, the Office of Legal Co Hearings ("OLCRAH") issued a notice schedul 2020.	는 보호하는 이 이 이 전에 가는 이 아이지 않는데, 이 사람들은 사람이 있는데 사람이 있다면 보고 있다면 보고 있다. 그리고 있다면 하는데 없는데 하는데 없는데 없는데 없다면 없다.



Hearing Record)



- 5. On 2020, the Department received a copy of the Life Insurance Policy detail verifying the face value of \$50,000.00 and Cash surrender value of \$8001.99. The Department also received a statement from the POA stating that he is planning to purchase the life insurance policy and transferring the proceeds to a funeral contract. (Exhibit 9: Policy Details of Life Insurance Policy and POA's statement)
- 6. On 2020, the Department reviewed the information received from the POA and determined that the Life Insurance Policy surrender value of \$8,001.99 was over the asset limit. (Exhibit 9: Policy Details of Life Insurance Policy, Hearing Summary; Department's Testimony)
- 7. On ______, 2020, the Department sent to the Appellant and her POA a Notice of Action denying the application for Husky C- Long Term Care Facility Medicaid because the value of assets is more than the amount we allow you to have. (Exhibit 10: Notice of Action dated _______ 2020; Hearing Summary)
- 8. On 2020, the Applicant passed. (AREP's Attorney's Testimony)
- 9. The LTCF Medicaid program asset limit is \$1,600.00. (Department's testimony; Hearing Record)

CONCLUSIONS OF LAW

- Section 17b-260 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the Medicaid program.
- 2. "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)).
- UPM § 4005.05(C) provides that "the Department does not count the assistance unit's equity in an asset toward the asset limit if the asset is either: excluded by state or federal law; or not available to the unit.
- 4. Connecticut General Statutes 17b-261(h) provides to the extent permissible under federal law, an institutionalized individual, as defined in section 1917 of the Social

Security Act USC 1396p(h)(3), shall not be determined ineligible for Medicaid solely on the basis of the cash value of a life insurance policy worth less than ten thousand dollars provided the individual is pursuing the surrender of the policy

The Department received a copy of the Life Insurance Policy detail verifying the cash surrender value being less than \$10,000.00. The Department also received a statement from the POA stating their plan to transfer the proceeds from Life Insurance Policy to a funeral contract. Information was received within the time allotted by the Department.

- 5. UPM § 1015.10(A) 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.
- 6. UPM § 1505.40(B)(5)(a) 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.
- 7. UPM § 1505.40(B)(5)(b) provides that additional 10 day extensions for submitting verification shall be granted as long as after each subsequent request for verification at least one item of verification is submitted by the assistance unit within each extension.

The Department failed to notify the Appellant and her POA about additional information it needed to process the application after it has received verification of detail of the Life Insurance Policy and cash surrender amount.

The Department incorrectly determined that the Appellant was not eligible for medical assistance under the Husky C-LTC program because her countable assets were not reduced below the \$1,600.00 program asset limit.

The Department incorrectly denied the Applicant's Husky C-LTC application.

DISCUSSION

The Department received a statement from the POA on plants, 2020, stating that he is planning to cash the Appellant's Life Insurance Policy and transfer the proceeds to a Funeral Contract for her, he also sent the verification of cash surrender value of the Life Insurance Policy. The cash surrender value is less than ten thousand dollars and based on the State statutes the institutionalized individual shall not be determined ineligible for Medicaid solely on the basis of the cash value of a life insurance policy worth less than ten thousand dollars provided the individual is pursuing the surrender of the policy. The Department's stand is that the Appellant did not provide any evidence verifying the transfer of Life Insurance policy to funeral contract, however, the Department failed to request that information.

DECISION

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

ORDER

- 1. The Department will consider the cash surrender value of the Appellant's Life Insurance Policy excluded and provided all other eligibility factors are met, grant Long Term Care Medicaid as of the application date.
- 2. Compliance with this order will be due by _______, 2020.

Swati Sehga Hearing Officer

CC: Musa Mohamad, Operations Manager, DSS R.O.# 10, Hartford Judy William, Operation Manager, DSS R.O. #10, Hartford Jessica Carroll, Operation Manager, DSS R.O. #10. Hartford Jay Bartolomei. Fair Hearing Liaison Supervisor, DSS R.O. #10, Hartford Stacy Carrier, Fair Hearing Liaison, DSS R.O. #10, Hartford

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 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.