

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

██████████ 2021  
Signature Confirmation

Request # 161741

Case ID # ██████████

Client ID # ██████████

**NOTICE OF DECISION**

**PARTY**

██████████  
██████████  
██████████

**PROCEDURAL BACKGROUND**

On ██████████ 2020, the Department of Social Services (the “Department”) sent ██████████ (the “Appellant”) a notice granting the Appellant’s Medicaid application for Long Term Support Services (“LTSS”) benefits effective ██████████ 2020.

On ██████████ 2020, a representative from the Appellant’s facility, ██████████, requested an administrative hearing to contest the effective date of the LTSS 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, in accordance with sections 17b-60, 17b-61, and 4-176e to 4-184, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing by telephonic conferencing.

The following individuals participated in the hearing:

██████████ Appellant’s Daughter, and Representative  
██████████ Representative for the Facility  
Marilyn Phillips, Department’s Representative  
Christopher Turner, Hearing Officer

The Appellant did not participate in the hearing due to her institutionalization.

The hearing record was left open for the submission of additional information from the Appellant's daughter and the nursing facility. On [REDACTED] 2020, the record closed after receipt of additional information.

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether the Department correctly determined [REDACTED] 2020, as the effective date of the Appellant's LTSS assistance.

### **FINDINGS OF FACT**

1. On [REDACTED] 2019, the Appellant was admitted to the [REDACTED] a skilled nursing facility. (Exhibit 1: W-1 LTSS application; Hearing summary)
2. On [REDACTED] 2019, the Department received an online application for LTSS on behalf of the Appellant from the Appellant's facility. The facility is listed as an authorized representative. (Exhibit 1)
3. On [REDACTED] 2019, the Department sent [REDACTED] and [REDACTED] a W-1348LTC requesting a copy of a death certificate or divorce decree, if widowed or divorced; bank statements for [REDACTED] checking account # [REDACTED] and savings account # [REDACTED]; proof of [REDACTED] stock share amount. An [REDACTED] 2019, due date was given. The 1348 noted there is no eligibility for Title 19 in any month in which counted assets exceed \$1,600. (Exhibit 3A: W1348LTC; Hearing summary)
4. On [REDACTED] 2019, the Department's representative e-mailed [REDACTED] the facilities representative, indicating an updated W-1348LTC will be mailed on [REDACTED] 2020. This was the only e-mail sent to or received through [REDACTED] 2019. (Exhibit 13: E-mail chain)
5. On [REDACTED] 2019, the Department sent [REDACTED] and [REDACTED] a second W-1348LTC requesting a copy of a death certificate or divorce decree, if widowed or divorced; bank statements for [REDACTED] checking account [REDACTED] and savings account [REDACTED]; proof of [REDACTED] stock share amount. A [REDACTED] 2019, due date was given. The 1348 noted there is no eligibility for Title 19 in any month in which counted assets exceed \$1,600. (Exhibit 3B: W1348LTC)
6. On [REDACTED] 2019, the Department sent [REDACTED] and [REDACTED] a third W-1348LTC requesting a copy of a death certificate or divorce decree, if widowed or divorced; bank statements for [REDACTED] checking account [REDACTED] and savings account [REDACTED]; proof of [REDACTED] stock share amount. A [REDACTED] 2019, due date was given. The 1348 noted there is no eligibility for Title 19 in any month that counted assets exceed \$1,600. (Exhibit 3D: W1348LTC)

7. On [REDACTED] 2019, the Appellant's daughter was appointed power of attorney and durable power of attorney for her mother. (Daughter's Exhibit A: Copy of Power of Attorney document)
8. On [REDACTED] 2020, the Department sent [REDACTED] and [REDACTED] a fourth W-1348LTC requesting bank statements for [REDACTED] checking account [REDACTED] and savings account [REDACTED]; proof of [REDACTED] stock share amount. A [REDACTED] 2020, due date was given. The 1348 noted there is no eligibility for Title 19 in any month in which counted assets exceed \$1,600. (Exhibit 3D: W1348LTC)
9. On [REDACTED] 2020, the Department sent [REDACTED] and [REDACTED] a fifth W-1348LTC requesting bank statements for [REDACTED] checking account [REDACTED] and savings account [REDACTED]; proof of [REDACTED] stock share amount. A [REDACTED] 2020, due date was given. The 1348 noted there is no eligibility for Title 19 in any month in which counted assets exceed \$1,600. (Exhibit 3E: W1348LTC)
10. On [REDACTED] 2020, the Appellant's daughter e-mailed the Department's representative to inquire on what else is needed from her other than the [REDACTED] stock value? (Exhibit 9: E-mail chain)
11. On [REDACTED] 2020, the Appellant's [REDACTED] shares were sold. (Record; Facilities Exhibit 7: [REDACTED] printout)
12. On [REDACTED] 2020, the Department sent [REDACTED] and [REDACTED] a sixth W-1348LTC requesting clarification of [REDACTED] checking account [REDACTED] transfers; proof of [REDACTED] stock surrender date, and how stock funds were used for the client's benefit. A [REDACTED] 2020, due date was given. The 1348 noted there is no eligibility for Title 19 in any month in which counted assets exceed \$1,600. (Exhibit 3F: W1348LTC)
13. On [REDACTED] 2020, the Appellant's daughter e-mailed the Department's representative concerning verification of [REDACTED] stock surrender date and how stock funds were used for the client's benefit. (Exhibit 9)
14. On [REDACTED] 2020, the Appellant's daughter e-mailed the Department's representative indicating the [REDACTED] stock value at the time of liquidation was \$2,666.00. (Exhibit 9)
15. On [REDACTED] 2020, the Department's representative e-mailed the Appellant's daughter concerning verification of [REDACTED] stock surrender date and how stock funds were used for the client's benefit and verification of [REDACTED] transfers. (Exhibit 9)
16. On [REDACTED] 2020, the Department sent [REDACTED] and [REDACTED] a seventh W-1348LTC (the last one before grant) requesting proof of [REDACTED] stock surrender date and how stock funds were used for the client's benefit. An [REDACTED] 2020, due date was given. The 1348 noted there is no eligibility for Title 19 in any

month in which counted assets exceed \$1,600. (Exhibit 3G: W-1348LTC; Hearing summary)

17. On [REDACTED] 2020, [REDACTED] e-mailed the Department's representative concerning the status of the Appellant's application and what she can do to help get the case granted as it has been one year since the date of application. (Exhibit 9)
18. On [REDACTED] 2020, the Department received an e-mail from [REDACTED] indicating she spoke with [REDACTED] who in turn informed her that three checks have not been cashed and once that is done (cashed) the account will be closed and have no cash value. (Exhibit 9)
19. On [REDACTED] 2020, the Department's representative e-mailed [REDACTED] requesting she [REDACTED] provide verification when the initial checks were issued. (Exhibit 9)
20. On [REDACTED] 2020, [REDACTED] e-mailed the Department's representative specifying the [REDACTED] checks were issued in [REDACTED] and she [REDACTED] will ask them for proof up to that point. Also, she indicated the Appellant's daughter stated she (daughter) was taking care of the documentation and believed she (daughter) had it under control. (Exhibit 9)
21. On [REDACTED] 2020, the Appellant's daughter e-mailed the Department's representative indicating her mothers' account was closed on [REDACTED] 2020. (Exhibit 9)
22. On [REDACTED] 2020, [REDACTED] e-mailed the Department's representative specifying the [REDACTED] checks were applied towards the Appellant's [REDACTED] bill as private pay. (Exhibit 9)
23. On [REDACTED] 2020, the Department's representative e-mailed the facilities representative indicating the Appellant is asset eligible effective [REDACTED] 2020, and requesting a facility diversion bill for [REDACTED] 2019, through [REDACTED] 2019. The facilities representative indicating, she wished to avoid a diversion. (Exhibit 9)
24. On [REDACTED] 2020, [REDACTED] e-mailed the Department's representative indicating the Appellant does not have [REDACTED] to pay the facility or other medical bills. Also, [REDACTED] indicated the [REDACTED] account number listed on the Department's W-1348LTC was incorrect. (Exhibit 9)
25. On [REDACTED] 2020, the Department's representative e-mailed the facilities representative agreeing the [REDACTED] account number was transposed. (Exhibit 9)
26. On [REDACTED] 2020, the Department granted the Appellant's LTSS application with an effective date of [REDACTED] 2020. (Exhibit 11: Notice; Hearing summary)

27. The facility is requesting an LTSS effective date of [REDACTED] 2019. ([REDACTED] testimony)
28. The Appellant's daughter requests the Appellant's [REDACTED] stock holdings be considered pension income and, as a result, inaccessible and not countable towards the \$1,600.00 asset limit. ([REDACTED] testimony)
29. There is no indication in the case record that the Appellant's daughter or facility expressed difficulty or asked for help in obtaining requested verifications during the application process. (Record; Testimony)
30. The issuance of this decision is timely under Connecticut General Statutes 17b-61(a), which requires that a decision be rendered within 90 days of the request for an administrative hearing. However, under Governor Lamont's Executive Order 7M issued March 25, 2020, and Commissioner Gifford of the Department of Social Services order dated April 13, 2020; this time frame has been extended to 120 days. The Appellant requested an administrative hearing on [REDACTED] 2020, with this decision due no later than [REDACTED] 2021. However, due to a 14-day extension granted for the submission and comment of additional information, this decision was due no later than [REDACTED] 2021. (Record)

### CONCLUSIONS OF LAW

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

Conn. Gen. Stat. § 17b-261a (d) (1) provides 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 is equivalent to those services provided in a long-term care facility, or (C) home and community-based services under a Medicaid waiver.

**The Appellant is an institutionalized individual of a long-term care facility who has applied for Medicaid coverage with the Department.**

2. "The Department's Uniform Policy Manual ("UPM") is the equivalent of 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)).
3. UPM § 1010.05 (A) (1) provides that the assistance unit must supply the Department in an accurate and timely manner as defined by the Department, all pertinent information, and verification that the Department requires to determine eligibility and calculate the amount of benefits.

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.

**The Department correctly sent the Appellant's representative several Application Verification Requirements lists requesting information needed to establish eligibility.**

4. UPM § 1505.35 (C) (1) provides the following promptness standards are established as maximum times for processing applications: (c) (2) forty-five calendar days for AABD or MA applicants applying based on age or blindness.

**The Department correctly determined the standard of promptness for the Appellant's LTSS application was 45 days.**

5. UPM § 4005.05 (B) (1) provides 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: (a) available to the unit or (b) deemed available to the unit.

UPM § 4005.05 (B) (2) provides that under all programs except Food Stamps, the Department considers as asset available when actually available to the individual or when the individual has the legal right, authority, or power to obtain the asset or have it applied for his or her general or medical support.

UPM § 4005.15 (A) provides for treatment of inaccessible assets. (1) Subject to the conditions described in this section, equity in an asset which is inaccessible to the assistance unit is not counted as long as the asset remains inaccessible.

UPM § 4005.15 (B) (1) provides the burden is on the assistance unit to demonstrate that an asset is inaccessible.

**There is no indication in the case record that the Appellant's daughter requested the Department's help in obtaining access to her mother's [REDACTED] shares.**

**The Department correctly determined the Appellant's representative had the ability to access the Appellant's [REDACTED] stock holdings.**

6. UPM § 4099.15 (A) provides for factors relating to inaccessibility of assets. (1) The assistance unit must verify that an otherwise counted asset is inaccessible to the unit if the unit claims it cannot convert the asset to cash. (2) If the unit is unable to verify that the asset is inaccessible, the asset is considered a counted asset.

UPM § 4099.20 (A) provides for verification of excluded assets. 1. The assistance unit must verify the reason for the exclusion of an asset if there is a question regarding the validity of the exclusion.

UPM § 4099.20 (B) provides the reasons for an exclusion of an asset include, but are not limited to: (1) source from which the assistance unit obtains the asset; (2) purpose for which the assistance unit uses the asset; (3) fair market value of the asset; (4) income generated by the asset; (5) expectations of an institutionalized individual to return to the home.

**The Department correctly determined the Appellant's ██████████ Stock Shares were an accessible asset and not deemed pension income.**

7. UPM § 4030.75 (A) provides for the treatment of stocks and bonds. (1) The equity value of a share of stock is the net amount the owner would receive upon selling the share.

**The Department correctly determined the value of the Appellant's ██████████ stock shares to be \$2,746.84 (\$2,659.72 + \$74.10 + \$13.02) at the time of the ██████████ 2020 sale.**

8. UPM § 1560.10 provides for beginning dates of Medicaid Assistance. The beginning date of assistance for Medicaid may be one of the following: A. the first day of the first, second or third month immediately preceding the month in which the Department receives a signed application when all non-procedural eligibility requirements are met and covered medical services are received at any time during that particular month.

UPM § 4005.05 (D) (2) provides in relevant part, that an assistance unit is not eligible for benefits under a particular program if the unit's equity in counted assets exceeds the asset limit for the particular program.

UPM § 4005.10 (A) provides the asset limits for the Department's programs are as follows: (2) AABD and MAABD (a) the asset limit is \$1,600 for a needs group of one. UPM § 4005.15 (A) (2) provides that at the time of application, the assistance unit is ineligible until the first day of the month in which it reduces its equity in counted assets to within the asset limit.

UPM § 4099.05 (B) provides for the reduction of excess assets. 1. The assistance unit must verify that it has properly reduced its equity in counted assets to within the program's limit. 2. If the unit does not verify that it has properly reduced its equity in counted assets, the unit is ineligible for assistance.

**The Department correctly determined ██████████ 2020, as the first month of eligibility based on the Appellant's assets not exceeding \$1,600.00.**

### DISCUSSION

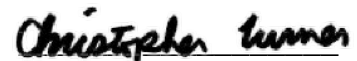
The facility applied for assistance on behalf of the Appellant with the application process taking more than a year. The facility, and the Appellant's daughter, received the Department's requests for information but did not follow up with the Department or Appellant's daughter concerning the [REDACTED] shares. The Appellant's daughter liquidated the Appellant's stock in [REDACTED] 2020 but never informed the Department or the facility while at the same time the Department continued the eligibility process by sending requests for information in [REDACTED] 2020 and [REDACTED] 2020.

The testimony of the facilities representative that they are always diligent and on top of the application process but needed authorization to obtain information from [REDACTED] is not backed by the evidence. That is, the stock information was obtained in [REDACTED] 2020 (seven months after the [REDACTED] 2020 liquidation) by a phone call to [REDACTED] customer service line by the facilities representative. If this action were taken by the facility or the Appellant's daughter any time before [REDACTED] 2020 or before the submission of the Appellant's LTSS application, the Appellant's unpaid bill to the facility could have been avoided. To suggest the Department made it difficult to obtain the [REDACTED] information due to an incorrect account number noted on the Department's W-1348's is not persuasive. On the other hand, it is likely communication between the facility and the Appellant's daughter was lacking and led to the issue at hand.

The Department correctly determined [REDACTED] 2020, as the effective date of the Appellant's LTSS coverage, the month in which the Appellant's assets were reduced below the program limit.

### DECISION

The Appellant's appeal is denied.

  
Christopher Turner  
Hearing Officer

Cc: Yecenia Acosta, Operations Manager Stamford  
Marilyn Phillips Bridgeport DSS  
[REDACTED]



### **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, law, and 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 Legal Counsel, Regulations, and Administrative Hearings, 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 if 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, 165 Capitol Avenue, 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 her 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.