

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

██████████, 2023  
Signature Confirmation

Case ID # ██████████  
Client ID # ██████████  
Hearing Request # ██████████

NOTICE OF DECISION

PARTY

██████████  
██  
██████████  
████████████████████

PROCEDURAL BACKGROUND

On ██████████, 2023, Ascend Management Innovations LLC (“Maximus”), the Department of Social Services (“Department”) contractor that administers approval of nursing home care, sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) denying Medicaid coverage for nursing facility level of care.

On ██████████, 2023, the Appellant requested an administrative hearing to contest Maximus’ decision to deny Medicaid coverage for nursing facility level of care.

On ██████████, 2023, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████, 2023.

On ██████████, 2023, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-184, inclusive, of the Connecticut General Statutes, the OLCRAH held an administrative hearing. The following individuals participated in the hearing:

██████████, Appellant  
██████████, Facility Social Worker, ██████████ ██████████ ██████████ ██████████  
██████████  
Jean Denton, Supervisor-Clinical Management, Maximus Representative

Charlaine Ogren, LCSW, Department's Representative  
Joseph Davey, Administrative Hearing Officer

The hearing record was held open for Maximus to review information and to allow the Facility to respond. Maximus completed their review and the Facility responded on [REDACTED], 2023. The hearing record closed accordingly.

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether Maximus' decision to deny the Appellant's Medicaid coverage for nursing facility level of care was correct.

### **FINDINGS OF FACT**

1. The Appellant is [REDACTED] ( [REDACTED] ) years old [DOB [REDACTED].] (Appellant's Testimony)
2. The Appellant is a recipient of Medicaid. (Hearing Record)
3. On [REDACTED], 2022, the Appellant was admitted to [REDACTED] [REDACTED] (the "Facility") with the following diagnosis: moderate protein-calorie malnutrition, hypertension, alcohol abuse, anemia, disorder of phosphorous metabolism, heart failure, elevation of levels of liver transaminase levels and falling. (Hearing Record, Maximus' testimony)
4. On [REDACTED], 2023, the Facility submitted a NFLOC screening form to Maximus for review. The NFLOC form described the Appellant's current Activities of Daily Living ("ADL's") as requiring no assistance and current Instrumental Activities of Daily Living ("IADL's") as requiring verbal assistance with medications and minimal assistance with meal preparation. Based on the information submitted by the Facility, Maximus recommended a medical doctor conduct a review. During the review it was noted the Appellant was able to perform his ADLs independently and that his needs could be met in the community with appropriate supports. (Hearing Record)
5. On [REDACTED], 2023, Dr. William Regan MD, the medical doctor for Maximus, assessed the Appellant's medical condition using the following: NFLOC screen, Practitioner Certification, Psychosocial Evaluation, Minimum Data Set, Progress Notes, ADL, [REDACTED] Nutrition Note and Order Summary Report, Dr. Regan determined that nursing facility level of care was not medically necessary for the Appellant as it is not clinically appropriate in terms of the level of services provided and is not considered effective for his condition. (Exhibit 4: ADL Measures and ratings, Exhibit 6: Level of Care Determination dated [REDACTED], Exhibit 7: Practitioner Certification dated [REDACTED], Exhibit 8: Progress Notes dated [REDACTED], Exhibit 9: ADL dated [REDACTED], Exhibit 10: Psychosocial Evaluation dated [REDACTED], Exhibit 11: Order Summary Report dated [REDACTED], Exhibit 12: Minimum

Data Set dated [REDACTED], Exhibit 13: [REDACTED] Nutritional Note dated [REDACTED], Hearing Record)

6. On [REDACTED], 2023, Maximus issued a NOA to the Appellant informing him that he does not meet the criteria necessary for nursing facility level of care. (Exhibit 5: Notice of Action dated [REDACTED])
7. On [REDACTED], 2023, the OLCRAH received the Appellant's hearing request form. (Exhibit 1: Notice of Administrative Hearing dated [REDACTED])
8. On [REDACTED], 2023, the Appellant was discharged from the Facility to [REDACTED] in [REDACTED]. (Facility's testimony)
9. On [REDACTED], 2023, after the Appellant requested an administrative hearing, the Facility submitted a second NFLOC form to Maximus. (Facility's testimony, Maximus' testimony)
10. On or about [REDACTED], 2023, Maximus approved the Appellant's Medicaid coverage for nursing facility level of care from [REDACTED], 2022, through [REDACTED], 2023. (Maximus' testimony)
11. On [REDACTED], 2023, an administrative hearing was held regarding the denial of the Appellant's Medicaid coverage for nursing facility level of care. The Facility is contesting the denial for the period of [REDACTED], 2023, through [REDACTED], 2023. During the hearing, the Facility testified that the Appellant had a seizure on [REDACTED], 2023, and had to be transported to the emergency room. The Facility testified that they had previously sent this information to Maximus for review. (Hearing Record, Facility's testimony)
12. On [REDACTED], 2023, the hearing record remained open for Maximus to re-review the Appellant's level of care determination in light of the Facility's testimony. (Hearing Record)
13. On [REDACTED], 2023, Maximus issued a Notice of Action granting the Appellant a short-term level of care approval from [REDACTED], 2022, through [REDACTED], 2023. The approval covers the full length of the Appellant's stay in the Facility. The hearing record remained open until [REDACTED], 2023, for the Facility to submit a response. (Exhibit 14: Notice of Action dated [REDACTED], Exhibit 15: Emails between all parties, Hearing Record)
14. On [REDACTED], 2023, the Facility emailed all parties with the following response: "Thank you. I'm all set. As long as the determination is that the period of time in question will be covered and it appears as though it is. We will wait for the written confirmation." The hearing record closed after the response was received. (Exhibit 15, Hearing Record)

15. The issuance of this decision is timely under Connecticut General Statutes (“Conn. Gen. Stat.”) §17b-61(a), which requires that a decision be issued within 90 days of the request for an administrative hearing. The Appellant requested an administrative hearing on ██████████, 2023. The decision is, therefore, due no later than ██████████, 2023. (Hearing Record)

### **CONCLUSIONS OF LAW**

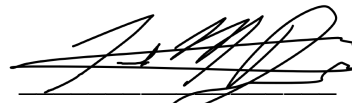
1. Sections 17b-2 & 17b-262 of the Connecticut General Statutes designates that the Department is the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act and may make such regulations as are necessary to administer the medical assistance program.
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)).
3. Uniform Policy Manual (“UPM”) § 1570.25 (c)(2)(k) provides that the Fair Hearing Official renders a Fair Hearing decision in the name of the Department, in accordance with the Department’s policies and regulations. The Fair Hearing decision is intended to resolve the dispute.
4. UPM § 1570.25(F)(2)(a) provides that the Department must consider several types of issues at an administrative hearing, including the following: a. eligibility for benefits in both initial and subsequent determinations

**The Department has approved the Appellant’s Medicaid level of care coverage effective ██████████, 2022, through ██████████, 2023. The approval spans the entirety of the Appellant’s stay in the Facility and thus, the Appellant has not experienced any loss of benefits.**

**The Appellant’s hearing issue has been resolved. Therefore, there is no issue on which to rule. “When the actions of the parties themselves cause a settling of their differences, a case becomes moot.” McDonnell v. Maher, 3 Conn. App. 336 (Conn. App. 1985), citing, Heitmuller v. Stokes, 256 U.S. 359, 362-3, 41 S.Ct. 522, 523-24, 65 L.Ed. 990 (1921). The coverage which the Appellant had requested has been approved; there is no practical relief that can be afforded through an administrative hearing.**

**DECISION**

The Appellant's appeal is **DISMISSED** as moot.

A handwritten signature in black ink, appearing to read 'J. Davey', written over a horizontal line.

Joseph Davey  
Administrative Hearing Officer

CC: [hearings.commops@ct.gov](mailto:hearings.commops@ct.gov)  
[AscendCTadmihearings@maximus.com](mailto:AscendCTadmihearings@maximus.com)

### **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 §4-1181a (a) of the Connecticut General Statutes.

Reconsideration requests should include specific grounds for the request: for example, indicate what error of fact or law, 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 06105-3725.

### **RIGHT TO APPEAL**

The appellant has the right to appeal this decision to Superior Court with **(45)** days of the mailing of this decision, or **(45)** days after the agency denies 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, 165 Capitol Avenue, 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 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.

