

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 Farmington Avenue
HARTFORD, CT 06105-5033

██████████ 2014
Signature Confirmation

Client ID # ██████████
Request #631473

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████ 2014, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") with the amount of Community Spouse Allowance, (CSA).

On ██████████ 2014, the Appellant requested an administrative hearing to contest the Department's calculation of the Applied Income.

On ██████████ 2014 the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice scheduling the administrative hearing for ██████████ 2014.

On ██████████ 2014 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:

██████████, Appellant's Representative
██████████, Appellant's Representative
██████████, Appellant's Representative
Patricia Holmes, Department's Representative
Swati Sehgal, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether or not the Department has correctly calculated the amount of Applied Income.

FINDINGS OF FACT

1. The Appellant is a resident of Willows Nursing Center. (Testimony)
2. The Appellant's spouse lives in the community. (Summary, Testimony)
3. On ██████ 2014, the Department completed a Long Term Care Medical Application. (Testimony)
4. On ██████ 2014, the Department informed the Community Spouse that a Community Spouse Allowance (CSA) of \$2,144.10 would be allowed as a deduction from the Appellant's income for her needs. (Summary)
5. On ██████ 2014, the Department determined that the Appellant's applied income that needed to be paid to Willows Nursing Center was \$5351.20. (Exhibit 2: Screen print of Medical Financial eligibility screen)
6. The Appellant's gross monthly social security benefit amount is \$1,681.90. (Exhibit 2: screen prints of unearned income and Exhibit 6: Social Security Benefit Statement)
7. The Appellant's gross monthly pension amount is \$6280.28 (\$3845.37+2434.91) (Exhibit 7: Direct deposit statement from John Hancock and Exhibit 8: Direct deposit statement from BAC pension)
8. The Appellant's total gross monthly income is \$7962.18 (\$1681.90+\$6280.28).(Exhibit 2, Exhibit 7 and Exhibit 8)
9. The Appellant's monthly Medicare B premium is \$104.90. (Exhibit 4: screen print of Institution screen)
10. The Appellant is paying \$603.96 a month in medical premium for two people. $\$603.96/2=\301.98 is his portion of medical premium a month. (Exhibit 9: Annual enrollment worksheet)
11. The Community Spouses' gross monthly social security benefit amount is \$786.90 (Exhibit 5: Social Security Benefit Statement and Testimony)
12. The community spouse has a monthly rental obligation of \$1300.00 (Exhibit 11: Copy of Community spouses' Lease)

CONCLUSIONS OF LAW

1. Sections 17b-260 to 17b-264 of the Connecticut General Statutes authorizes the Commissioner of Social Services to administer the Title XIX Medical Assistance Program to provide medical assistance to eligible persons in Connecticut.
2. Uniform Policy Manual ("UPM") § 5045.20 pertains to assistance units who are residents of Long Term Care Facilities ("LTCF") or receiving community based services ("CBS") are responsible for contributing a portion of their income toward the cost of their care. For LTCF cases only, the amount to be contributed is projected for a six month period.
3. UPM § 5045.20 B (1) (a) provides that the amount of income to be contributed in LTCF cases at initial calculation for each month in the six month period for which the contribution is projected, monthly gross income is established as follows: total gross monthly income which was paid or payable to the applicant or recipient, in the six months prior to the period for which the contribution is projected, is divided by six.
4. The Department correctly determined that the Appellant's monthly gross income is \$7962.18 (\$1681.90 plus \$6280.28).
5. UPM § 5045.20 (B) (1) (b) provides that the total gross income is reduced by post-eligibility deductions (Cross reference: 5035-"Income Deductions") to arrive at the amount of income to be contributed.
6. UPM § 5035.25 (B) (1) provides a monthly deduction for LTFC units of a personal needs allowance ("PNA") of \$60.00, which, effective July 1, 1999 and annually thereafter, shall be increased to reflect the annual cost of living adjustment used by the Social Security Administration.
7. UPM § 5035.25 (B) (4) provides a monthly deduction for LTFC units of Medicare and other health insurance premiums, deductibles, and coinsurance costs when not paid for the Department or any other third party.
8. The Department correctly provided PNA deduction of \$60 and medical premium deduction of \$406.88. (\$104.90 Medicare premium + \$301.98 Medical insurance premium)
9. UPM § 5035.25 (B) (2) provides a monthly deduction for LTFC units of a Community Spouse Allowance ("CSA"), when appropriate; (Cross Reference 5035.30)

10. UPM § 5035.30 B (1) (a) (b) provides that the calculation of the CSA is equal to the greater of the following: the difference between the Minimum Monthly Needs Allowance ("MMNA") and the community spouse gross monthly income; or the amount established pursuant to court order for the purpose of providing necessary spousal support.
11. UPM § 5035.30 B (2) (a) (b) provides that the MMNA is the amount which is equal to the sum of the amount of the community spouse's excess shelter costs as calculated in section 5035.30 B. 3. and 150 percent of the monthly poverty level for a unit of two persons.
12. UPM § 5035.30 B (3)(4)(a)(b)(c)(d)(e) provides that the community spouse's shelter is equal to the difference between his or her shelter cost as described in section 5035.30 B. 4. and 30 % of 150 percent of the monthly poverty level for a unit of two persons. The community spouse's monthly shelter cost includes: rental cost or mortgage payments, including principle and interest; real estate taxes; real estate insurance; required maintenance fees charged by condominiums or cooperatives except those amounts for utilities and the Standard Utility Allowance ("SUA") used in the SNAP program for the community spouse.
13. UPM § 5035.30 B (5) (a) (b) provides that the MMNA may not exceed the greatest of either the maximum MMNA or an amount established through a Fair Hearing.
14. UPM § 1570.25 D (3) (a) (1) (2) (3) (b) (1) (2) (3) provides that the Fair Hearing official increases the community spouse's MMNA previously determined by the Department if either MCCA spouse establishes that the community spouse has exceptional circumstances resulting in significant financial duress, and the MMNA previously calculated by the Department is not sufficient to meet the community spouse's monthly needs as determined by the hearing official. Exceptional circumstances are those that are severe and unusual and that: prevent the community spouse from taking care of his or her activities of daily living; or directly threaten the community spouse's ability to remain in the community; or involve the community spouse's providing constant and essential care for his or her disabled child, sibling or other immediate relative (other than institutionalized spouse). Significant financial duress is an expense or set of expenses that: directly arises from the exceptional circumstances described in subparagraph a above; and is not already factored into the MMNA; and cannot reasonably be expected to be met by the community spouse's own income and assets.
15. UPM § 1570.25 D (3) (c) (1) (2) (3) (4) (5) (6) (7) provides expenses that are factored into the MMNA, and thus do not generally qualify as causing significant financial duress, include, but are not limited to: shelter costs such as rent or mortgage payments; utility costs; condominium fees; real estate and personal property taxes; real estate, life and medical insurance; expenses for the upkeep of a home such as lawn maintenance, snow removal, replacement

of a roof, furnace or appliance; medical expenses reflecting the normal frailties of old age.

16. UPM § 1570.25 D (4) provides that in order to increase the MMNA, the Fair Hearing official must find that the community spouse's significant financial duress is a direct result of the exceptional circumstances that affect him or her.
17. The Community spouse does not have exceptional circumstances. The MMNA cannot be increased above the maximum allowed amount of \$2931.00.
18. The Department correctly determined that the Appellant's CSA is \$2,144.10. See table below:

	AMOUNT
Shelter Costs:	
Rent	\$1300.00
Standard Utility Allowance	<u>+ 694.00</u>
Total shelter costs:	\$1994.00
Less base shelter costs [30% of \$1965.25 (150% of the federal poverty level (FPL) for two)]	<u>- 589.88</u>
Excess shelter costs:	\$1404.12
Plus 150% of the FPL for two:	<u>+1,966.25</u>
Equals the MMNA	\$3,370.37
Maximum MMNA	\$2,931.00
Community Spouse's Income	<u>- 786.90</u>
Community Spouse Allowance	\$2,144.10

19. The Department correctly determined the Appellant's monthly applied income was \$5351.20 (\$7962.18 minus \$60.00 PNA minus \$406.88 Medicare Part B and Medical insurance premium minus \$2,144.10 CSA).
20. The Department correctly determined the amount of applied income that the Appellant must pay toward his cost of long term care.

DISCUSSION

The Appellant's representative feels that the Community Spouse Allowance (CSA) is not significant enough to pay her monthly expenses. The maximum MMNA is \$2,931.00. The calculation of the CSA allows the Appellant's spouse to receive the maximum amount. In order to receive an amount above \$2,931.00, there must be exceptional circumstances as outlined in UPM § 1570.25. While the Appellant's monthly expenses are high, they do not meet the exceptional circumstances criteria as set out in regulation.

DECISION

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


Swati Sehgal
Hearing Officer

Pc: Bonnie Shizume, SSPM, DSS R.O. #20 New Haven .

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.

