

STATEMENT OF THE ISSUE

The issue is whether the Department correctly calculated the Appellant's applied income used to determine the amount he is responsible to pay toward the cost of his long-term care.

FINDINGS OF FACT

1. The Appellant is a 74 year old (D.O.B. [REDACTED] [REDACTED] [REDACTED] widowed male. (Conservator's Testimony, Exhibit A: Application, [REDACTED] [REDACTED] /17)
2. On [REDACTED] [REDACTED] 2017, the Department sent the Appellant a NOA indicating that the Appellant's [REDACTED] [REDACTED] 2017 application for medical assistance under the Medicaid Long-Term Care program was approved effective [REDACTED] 2017. (Exhibit E: NOA, [REDACTED] [REDACTED] /17)
3. The Appellant's LTSS benefit was granted and no diversion was calculated and not request for a diversion was calculated in the applied income. (Hearing Record, Exhibit E)
4. The Conservator disputes that the Appellant does not receive a diversion of rent expenses to maintain a household in the community. (Conservator's Testimony)
5. The Appellant is a recipient of Medicaid and resides in a skilled nursing facility, [REDACTED] [REDACTED] [REDACTED] and [REDACTED] [REDACTED] in [REDACTED] Connecticut (the "Nursing Facility"). (Hearing Record, Exhibit A, Exhibit B: Admission Notice, Exhibit E: NOA, [REDACTED] [REDACTED] /17, Exhibit F: NOA, [REDACTED] [REDACTED] /17)
6. The Appellant receives a monthly gross unearned income from the Social Security Administration ("SSA") in the amount of \$1,951.00. (Exhibit 12: NOA, [REDACTED] [REDACTED] /18)
7. The Appellant receives a monthly gross unearned income from the Veteran's Administration ("VA") in the amount of \$1,659.67. (Exhibit 12)
8. The Appellant receives a monthly pension amount of \$67.76. (Exhibit 12)
9. During [REDACTED] 2018, the Department completed a yearly review of the Appellant's LTSS benefits and determined that the Appellant's new liability amount is \$3,507.43. (Exhibit 12)
10. On [REDACTED] [REDACTED] 2018, the Department sent the Appellant a NOA indicating that the Appellant must pay \$3,507.43 per month towards the cost of his medical care effective [REDACTED] [REDACTED] 2018. (Exhibit 5: NOA, [REDACTED] [REDACTED] /17)

11. On ■■■■■ 2018, the Conservator requested a hearing regarding an adjustment of applied income diversion of expenses related to maintaining the Appellant's home at the time of his original application because he was expected to return home.

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 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. The Department correctly determined the Appellant was resident of a LTCF and is responsible for contributing a portion of his income the cost of his care.
4. UPM § 5035.20(B) provides in part that the following monthly deductions are allowed from the income of assistance units in LTCF's"
 1. For veterans whose VA pension has been reduced to \$90.00 pursuant to P.L. 101-508, and for spouses of deceased veterans whose pension has been similarly reduced pursuant to P.L. 101-508, as amended by Section 601(d) of P.L. 102-568, a personal needs allowance equal to the amount of their VA pension and the personal needs allowance described in 2. below.
 2. A persona need allowance of \$50.00 for all other assistance units, 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;
 3. An amount of income diverted to meet the needs of a family member who is in a community home to the extent of increasing his or her income to the MNIL which corresponds to the size of the family;
 4. Medicare and other health insurance premiums, deductibles, and coinsurance costs when not paid for by Medicaid or any other their party;

5. Costs for medical treatment approved by a physician which are incurred subsequent to the effective date of eligibility and which are not covered by Medicaid;
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 § 5050.13 provides in part that Social Security Benefits, Veteran's Benefits are income that is treated as unearned income in all programs.
7. The Department correctly determined that the Appellant's monthly gross income for [REDACTED] 2018 is \$3,678.43 (\$1,951.00, SSA + \$1,659.67, VA + \$67.76, pension)
8. UPM § 5035.20 provides that for residents of long term care facilities (LTCF) and those individuals receiving community-based services (CBS) when the individual does not have a spouse living in the community, total gross income is adjusted by certain deductions to calculate the amount of income which is to be applied to the monthly cost of care.
9. UPM § 5035.25 (B) (1) provides a monthly deduction for LTFC units of a personal needs allowance ("PNA") of \$50.00, 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.

Connecticut General Statutes § 17b-272. (Formerly Sec. 17-134m). Personal fund allowance. Effective July 1, 2011, the Commissioner of Social Services shall permit patients residing in nursing homes, chronic disease hospitals and state humane institutions who are medical assistance recipients under sections 17b-260 to 17b-262, inclusive, 17b-264 to 17b-285, inclusive, and 17b-357 to 17b-361, inclusive, to have a monthly personal fund allowance of sixty dollars.

10. The Department correctly provided a \$60.00 personal needs allowance ("PNA") deduction
11. UPM § 5045.20 provides that the assistance units who are residents of Long Term Care Facilities (LTFC) or receiving community based services (CBS) are responsible for contributing a portion of their income toward the cost of their care. For LTCV cases only, the amount to be contributed is projected for a six month period.
12. UPM § 5045.20(A) provides that the amount of income to be contributed is calculated using the post-eligibility method starting with the month in which the 30th day of continuous CTFC care or receipt of community-based services occurs, and ending with the month in which the assistance unit member is discharged from the LTFC or community-based services are last received.

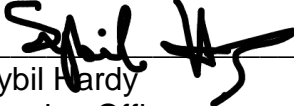
13. UPM 5045.20(B)(1)(b) provides that the total gross income is reduced by post eligibility deductions (Cross reference: 5035 ("Income Deductions")) to arrive at the amount of the income to be contributed.
14. The Department correctly determined that the Appellant's monthly patient liability amount is \$3,507.43.

DISCUSSION

The Department correctly determined that the Appellant's applied income is \$3,507.43 effective [REDACTED] 2018. The Appellant's Conservator did not dispute the amount of his patient liability amount. The Conservator only disputes that the Appellant did not receive a diversion of rent that is determined at the time a grant which occurred during [REDACTED] 2017. This hearing officer has no jurisdiction to rule on the action regarding a diversion of income because that action occurred one year ago and no timely request for appeal of the action was received.

DECISION

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



Sybil Hardy
Hearing Officer

Pc: Brian Sexton, Operations Manager, DSS R.O. # 50, Middletown
Kenneth Smiley, Fair Hearings Liaison, DSS R.O. # 42, Willimantic
Brian F. Cunningham, Esquire, P.O. Box 1381, Hebron, CT 06248

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 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.