

STATE OF CONNECTICUT  
DEPARTMENT OF SOCIAL SERVICES  
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS  
55 FARMINGTON AVENUE  
HARTFORD, CT 06106-5033

██████████ 2020  
Signature Confirmation

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

NOTICE OF DECISION

PARTY

██████████  
██████████  
██████████

PROCEDURAL BACKGROUND

On ██████████, 2019, the Department of Social Services (the “Department”) sent ██████████ (the “Appellant”) a notice of action indicating that effective ██████████ 2019, she had an applied income amount of \$414.54 that she must pay toward her cost of services received through the State-funded Connecticut Home Care Program for Elders.

On ██████████, 2019, the Appellant requested an administrative hearing to contest the Department’s calculation of the applied income amount.

On ██████████, 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████, 2019.

On ██████████, 2019, the Appellant requested to reschedule the administrative hearing.

On ██████████ 2019, the OLCRAH issued a notice scheduling the administrative hearing for ██████████ 2019.

On ██████████ 2019, 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 daughter and Authorized Representative  
Jessica Conrod, Eligibility Services Worker, Department’s Representative  
Roberta Gould, Hearing Officer

## STATEMENT OF THE ISSUE

The issue is whether or not the Department has correctly calculated the amount of applied income that the Appellant is responsible to pay toward the cost of services received through the State-funded Connecticut Home Care Program.

## FINDINGS OF FACT

1. The Appellant is a recipient of the State-funded Connecticut Home Care Program. (Hearing record)
2. The Appellant receives Social Security benefits in the amount of \$1,958.50 gross per month. (Exhibit 8: Ascend notes and Hearing summary)
3. The Appellant receives an [REDACTED] pension in the amount of \$751.51 per month. (Exhibit 8 and Hearing summary)
4. As of [REDACTED] 2019, the Appellant paid \$135.50 for her monthly Medicare B premium. (Exhibit 2: ImpaCT LTSS patient liability amount and Department's testimony)
5. The Appellant provided documentation of prescription out-of-pocket medical expenses of \$77.97 per month. (Exhibit 1: Notice of action dated [REDACTED] and Exhibit 3: CT Home Care Program for Elders applied income worksheet and Exhibit 4: CVS patient prescription record)
6. On [REDACTED], 2019, the Appellant's AREP inquired about the Appellant's patient liability amount and informed the Department that the Appellant was paying [REDACTED] insurance premiums. (Exhibit 8)
7. On [REDACTED], 2019, the Department informed the Appellant that in order to allow a deduction for paying [REDACTED] insurance premiums, she must provide verification of the payments. (Exhibit 8)
8. On [REDACTED], 2019, the Department issued the Appellant a notice of approval for the State-funded Home Program for Elders with a patient liability amount of \$414.54 per month. (Exhibit 1 and Hearing summary)
9. On [REDACTED] 2019, the Appellant's AREP provided the Department with documentation that she pays \$160.75 for her monthly [REDACTED] medical insurance premium and \$34.90 for her monthly [REDACTED] prescription premium, as well as documentation of her current out-of-pocket medical expenses. (Exhibit 9: CVS patient prescription record and Exhibit 10: [REDACTED] Bank statement)
10. The personal needs allowance ("PNA") for the Connecticut Home Care Program for Elders is \$2,082.00 per month. (Exhibit 2, Exhibit 3 and Department's testimony)

11. The issuance of this decision is timely under Connecticut General Statutes 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 [REDACTED], 2019. Therefore, this decision is due not later than [REDACTED] 2020.

### 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. Conn. Gen. Stat. § 17b-10 provides that “the Department’s Uniform Policy Manual (“UPM”) is the equivalent of a state regulation and, as such, carries the force of law.”
3. Uniform Policy Manual (“UPM”) § 5045.20 provides that “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.”
4. UPM § 5045.20(C) provides for the amount of income to be contributed in community based services (“CBS”) cases:

1. Initial Calculation

The amount of income to be contributed is prospectively calculated by reducing gross monthly income by the post-eligibility deductions referred to in 5035 – “Income Deductions”.

2. Recalculation of Applied Income

Applied income is recalculated whenever there is a change in income or deductions.

**The Department incorrectly determined that the Appellant’s monthly gross income as of [REDACTED] 2019, was \$2,710.01 (\$1,958.50 SSA + \$751.51 Aetna pension).**

5. UPM § 5035.20(C) provides for monthly post-eligibility deductions for CBS Units without community spouses:

The following monthly deductions are allowed from the income of CBS assistance units:

1. an amount to meet the basic community maintenance needs of the individual to the extent that it is equivalent to:

- a. the MNIL for one person for those who are eligible under the model waiver; or
  - b. 200% of the Federal Poverty Level for those eligible under the PAS or DMR waiver;
2. an amount of income diverted to meet the needs of a family member who is in the community home to the extent of increasing his or her income to the MNIL which corresponds to the size of the family;
  3. Medicare and other health insurance premiums, deductibles, and coinsurance costs when not paid for by Medicaid or any other third party;
  4. expenses recognized as medical costs for which the recipient is currently liable, and which are not covered by Medicaid.

On [REDACTED], 2019, the Department correctly allowed for the deduction of a Medicare B premium in the amount of \$135.50 per month, prescription out-of-pocket medical expenses of \$77.97 per month, and an amount to meet the basic community maintenance needs of the Appellant equivalent to 200% of the Federal Poverty Level for one person (\$2,082.00) per month.

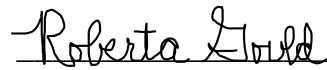
Effective [REDACTED] 2019, the Department correctly determined that the Appellant's monthly applied income for the State-funded Connecticut Home Care Program for Elders was \$414.54 (\$1,957.50 SSA + \$751.51 pension - \$165.50 Medicare B premium - \$77.97 out-of-pocket medical expenses - \$2,082.00 Federal Poverty Level = \$414.54.

### DISCUSSION

After reviewing the evidence and testimony presented at this hearing, I find that the Department's calculation of the Appellant's applied income for the State-funded Connecticut Home Care Program for Elders was correct. On September 20, 2019, the Department used the information that had been provided by the Appellant to calculate the patient liability amount or applied income. The Department also informed the Appellant's AREP that in order to allow a deduction for other health insurance premiums, she must provide documentation of those payments. At the time of the hearing the Appellant's AREP provided such documentation. Department policy provides that for community based services cases applied income is recalculated whenever there is a change in income or deductions. Therefore, the Department should re-calculate the amount of applied income based on actual income and deductions ongoing.

### DECISION

The Appellant's appeal is DENIED.

  
Roberta Gould  
Hearing Officer

Pc: Community Options Unit, DSS Central Office  
Jessica Conrod, Eligibility Services Worker, DSS Central Office

### **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 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, 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 his 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.