

STATE OF CONNECTICUT  
DEPARTMENT OF SOCIAL SERVICES  
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS  
25 SIGOURNEY STREET  
HARTFORD, CT 06106-5033

██████████ 2013  
Signature Confirmation

Client ID # ██████████  
Request # 528558

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2013, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") informing him that he must pay \$3,563.85 each month towards his cost of care under the Long Term Care Medical Assistance ("LTC") program effective ██████████ 2013.

On ██████████ 2013, the Appellant requested an administrative hearing to contest the Department's calculation of the applied income amount.

On ██████████ 2013, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice scheduling the administrative hearing for ██████████ 2013.

On ██████████ 2013, the Appellant requested a continuance of the hearing.

On ██████████ ██████████ 2013, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice rescheduling the administrative hearing for ██████████ 2013.

On ██████████ 2013, in accordance with sections 17b-60, 17-61 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 Attorney  
Michael Carone, Department's Representative  
Christopher Turner, Hearing Officer  
Carla Hardy, Hearing Officer, Observer

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether the Department's calculation of the applied income that must be paid to the convalescent home each month was correct.

### **FINDINGS OF FACT**

1. On ██████████ 2012, the Appellant applied for Title 19 to cover his stay in a long term care facility. (Hearing summary)
2. The Appellant owns a home in the community. (Testimony)
3. The Appellant's spouse resides in a long term care facility and she is considered to be a long term placement. (Hearing summary)
4. On ████████ 2013, the Department granted the Appellant's LTC application effective ██████████ 2012.
5. Effective ██████████ 2013, the Appellant's gross monthly income is \$3,728.75. (Exhibit C)
6. The Department allows a Personal Needs Allowance (PNA) income deduction in the amount of \$60.00 per month. (Exhibit C)
7. Effective ██████████ 2013, the Department allowed a \$650.00 rental diversion income deduction of \$650.00. (Exhibit C: Department's Medical Financial Eligibility printout)
8. Effective ██████████ 2013, the Appellant pays a Medicare Part B. premium of \$104.90. (Exhibit C)
9. Effective ██████████ 2013, the Appellant's applied income equaled \$2,913.85 (Gross Income of \$3,728.75, minus \$650.00 home maintenance diversion, minus \$60 PNA, minus \$104.90 Part B. premium). (Exhibit C)

10. On [REDACTED] [REDACTED] 2013, the Department removed the \$650.00 home maintenance diversion income deduction effective [REDACTED] 2013. (Exhibit B: Department's narrative; Exhibit C)
11. Effective [REDACTED] [REDACTED] 2013, the Appellant's applied income equaled \$3,563.85. (Gross Income of \$3,728.75, minus \$60.00 PNA, minus \$104.90 Part B. premium). (Exhibit C)
12. On [REDACTED] 2013, the Appellant died. (Testimony)

### **CONCLUSIONS OF LAW**

1. § 17b-2, section (9) of the Connecticut General Statutes, designates the Department of Social Services as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Uniform Policy Manual (UPM) § 5035.20 provides for post-eligibility deductions for LTCF/ CBS units without a community spouse and states in part:

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.

#### A. Durational Use of Deductions

The deductions described below are subtracted from income:

1. beginning with the month in which the 30th day of continuous LTCF care or the receipt of community-based services occurs; and
2. ending with the month in which the unit member is discharged from the LTCF or community-based services are last received.

#### B. Deductions For LTCF Units

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 personal needs 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 third party;
  5. the cost of maintaining a home in the community for the assistance unit, subject to the following conditions:
    - a. the amount is not deducted for more than six months; and
    - b. the likelihood of the institutionalized individual's returning to the community within six months is certified by a physician;
3. The Department correctly allowed for the deduction of the \$60.00 personal needs allowance from the Appellant's gross income.

The Department correctly allowed for the deduction of the Appellant's monthly \$104.90 medical premiums from his gross income.

The Department correctly did not allow the use of a deduction for maintaining a home in the community effective [REDACTED] 2013, because the deduction had been used for a period of at least six months.

4. UPM § 5045.20 (B)(1)(b) provides for the amount of income to be contributed in LTCF cases and states that Total gross income is reduced by post-eligibility deductions (Cross reference: 5035-"Income Deductions") to arrive at the amount of income to be contributed.
5. The Department correctly determined that effective [REDACTED] 2013, the amount of income the Appellant was required to contribute to the cost of his long-term care, is \$3,563.85.

### **DISCUSSION**

The evidence shows that the Appellant was granted assistance in [REDACTED] 2012. His applied income started in [REDACTED] 2013. The deduction for maintaining the Appellant's residence in the community therefore was subtracted from his applied income for six months starting in [REDACTED] 2013 and ending in [REDACTED] 2013. Six months is the maximum time limit for the deduction. While the Appellant's

Attorney requested an exception to this policy, there is no provision in Departmental regulations which would permit his appeal. The Department's action to increase the Appellant's monthly applied income effective [REDACTED] 2013 is correct.

**DECISION**

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

*Christopher Turner*  
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Christopher Turner  
Hearing Officer

CC: John Hesterberg, Operations Manager, DSS, R.O. #11, Manchester

### **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, 25 Sigourney Street, Hartford, CT 06106-5033.

### **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, 25 Sigourney Street, Hartford, CT 06106. 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.