

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

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

Client ID # ██████████  
Request #596532

**NOTICE OF DECISION**

**PARTY**

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

**PROCEDURAL BACKGROUND**

On ██████████, 2014, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") with the amount of applied income that he must pay toward his cost of long term care.

On ██████████ 2014, the Appellant requested an administrative hearing to contest the Department's calculation of the applied income amount.

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:

██████████, for the Appellant  
Jan Kopchik, Department's Representative  
Dawn Kosarko, Department's Representative  
Thomas Monahan, Hearing Officer

**STATEMENT OF THE ISSUE**

The issue is whether or not the Department has correctly calculated of the amount of applied income that the Appellant is responsible to pay toward the cost of her long-term care.

### **FINDINGS OF FACT**

1. The Appellant is a resident at Lord Chamberlin Nursing Home (the "facility"). (Hearing record)
2. The Department granted the Appellant Long Term Care Medicaid assistance effective [REDACTED] 2013. (Hearing record)
3. The Department diverted the Appellant's applied income from [REDACTED] 2013 through [REDACTED] 2014, to cover medical bills at the facility. (Hearing record)
4. Effective [REDACTED] 2014, the Appellant is required to pay applied income toward the cost of her long-term care. (hearing record)
5. The Appellant owns home property that is currently for sale. (Hearing record)
6. In [REDACTED] of 2014, the Appellant's monthly Social Security benefit was \$1,654.00. (Exhibit 3: unearned income screen print)
7. In [REDACTED] 2014, the Appellant's monthly pension benefit was \$130.00. (Ex. 3: unearned income screen print)
8. The State of Connecticut pays the Appellant's monthly Medicare Part B insurance premium. (Ex. 2: Institution screen print)
9. The Appellant pays \$60.90 per month for medical insurance premiums. (Ex. 2: Institution screen print)
10. The Department determined that the Appellant's applied income effective [REDACTED] 2014, was \$1,663.10. (Ex. 4: Financial eligibility screen)

### **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 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.
3. Regulation pertains to 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. UPM § 5045.20 (B)(1)(a)
4. Regulation provides that the recalculation of the amount to be contributed in any month of the six month period is required under the following conditions: a significant change occurs in income which amounts to an increase or decrease in monthly income of \$15 or more per month; or a change occurs, in any amount, in any deduction. UPM § 5045.20 (B)(2)
5. The Department correctly determined that the Appellant's monthly gross income was \$1,784.00 for ██████ 2014.
6. The Department correctly determined that there was a change in the income deduction.
7. Regulation 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. UPM § 5045.20(B)(1)
8. Regulation 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. The current PNA is \$60.00. UPM § 5035.20(B)(2)
9. Regulation 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. UPM § 5035.20(B)(4)
10. Regulation provides a monthly deduction for LTFC for the cost of maintaining a home in the community for the assistance unit, subject to the following conditions: the amount is not deducted for more than six months; and the likelihood of the institutionalized individual's returning to the community within six months is certified by a physician. UPM § 5035.20(B)(7)

11. The Department correctly determined that the Appellant was not eligible for a deduction to maintain a home in the community as she has resided at the facility since [REDACTED] 2013 and is not expected to return home.
12. The Department correctly determined that Appellant's applied income for [REDACTED] 2014 was \$1,663.10 (\$1,654 Social Security + \$130.00 pension minus \$60.00 PNA minus \$60.90 insurance premium).

### **DISCUSSION**

The Appellant's representative requested a portion of the applied income to be diverted to help with the costs of maintaining the Appellant's home in the community until it is sold. Regulations do not allow for this income deduction unless the Appellant is expected to return to the home within six months of entering the facility. The Appellant's representative stated that the Appellant's medical insurance premium has changed. The Appellant may submit verification of the new premium so that the Department can adjust the applied income amount.

### **DECISION**

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

*Thomas Monahan*  
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Thomas Monahan  
Hearing Officer

Pc: Poonam Sharma, Operations Manager, Bridgeport Regional 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, 25 Sigourney Street, Hartford, CT 06106.

### **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 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.

