

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105

██████████ 2015
Signature confirmation

Client: ██████████
Request: 629439

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2014, the Department of Social Services (the “Department”) issued ██████████ (“Appellant” or “institutionalized spouse”) a notice granting his Medicaid application for long-term care services, effective ██████████ 2013. As part of the grant, the Department determined that the Appellant would have to contribute a portion of his income toward his cost of care at the skilled nursing facility.

On ██████████, 2014, ██████████, the Appellant’s conservator and wife (“community spouse”), filed a request for an administrative hearing with the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) to increase the amount of her Community Spouse Allowance (“CSA”), an allowable deduction from the Appellant’s applied income.

On ██████████ 2014, the OLCRAH issued a notice scheduling an administrative hearing for ██████████, 2014. The Appellant requested postponements of the administrative hearing; the OLCRAH granted the requests.

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 hearing officer reconvened the administrative hearing on ██████████ 2014.

The following individuals were present at the ██████████ 2014 and ██████████, 2014 proceedings:

██████████, Appellant’s conservator (“community spouse”)
██████████ Appellant’s counsel
██████████ Appellant’s counsel’s paralegal

██████████ Appellant's witness
 Joseph Jack, Department's representative
 Eva Tar, Hearing Officer

The hearing record remained open for the submission of additional evidence. On ██████████ 2014, the hearing record closed.

STATEMENT OF ISSUE

The issue to be decided by this administrative hearing is whether the Appellant's community spouse is eligible for an increase in the CSA beyond that calculated by the Department. To facilitate that action, the Appellant's community spouse seeks an increase to her Minimum Monthly Needs Allowance.

FINDINGS OF FACT

1. The Appellant and the ██████████ (the "community spouse") are married. (Appellant's community spouse's testimony)
2. The Appellant is 67 years old. (Appellant's community spouse's testimony)
3. The Appellant's community spouse was born ██████████, 1955. (Appellant's Exhibit B: Fax, ██████/14)
4. On ██████ 2012, the ██████ Probate Court appointed the Appellant's community spouse to be the Appellant's conservator of person and estate. (Appellant's Exhibit A: Correspondence, ██████/14)
5. On ██████, 2012, the Appellant applied for Medicaid coverage of his long-term care services. (Department's Exhibit 10: Fax, ██████/14)
6. The Department granted the Appellant Medicaid coverage for his long-term care services, effective ██████ 2013. (Department's Exhibit 5: *Notices of Approval for Long-Term Care Medicaid*, ██████ 14)(Department's Exhibit 6: Printouts, varying dates)
7. In the period from ██████ 2013 through ██████ 2014, the Appellant received income from the following sources: Social Security, a Northern Trust pension, a Citi pension, and Met Life Long Term Disability benefits. (Department's Exhibit 1: Income verification, varying dates)
8. On ██████ 2014, the Appellant's Met Life Long Term Disability benefits terminated. (Department's Exhibit 1)
9. From ██████ 2013 through ██████ 2013, the Appellant's gross monthly income from all sources equaled \$5,026.48. (Department's Exhibit 1)(Department's Exhibit 10)
10. From ██████ 2014 through ██████ 2014, the Appellant's gross monthly income from all sources equaled \$5,059.48. (Department's Exhibit 1)(Department's Exhibit 10)

11. Effective [REDACTED] 2014, the Appellant's gross monthly income from all sources equaled \$3,358.75. (Department's Exhibit 1)(Department's Exhibit 10)
12. On [REDACTED] 2014, the Department issued notices to the Appellant stating that the Appellant must contribute \$3,829.51 per month toward the cost of his care at the facility for the months of [REDACTED] 2013 through [REDACTED] 2013, and \$3,862.51 per month for the months of [REDACTED] 2014 through [REDACTED] 2014. (Department's Exhibit 10)
13. On [REDACTED] 2014, the Department issued a notice to the Appellant stating that his applied income to be contributed each month toward the cost of his care at the facility equaled \$1,802.42, effective [REDACTED] 2014. (Department's Exhibit 5)
14. For the months from [REDACTED] 2013 through [REDACTED] 2013, the Department determined that the Appellant's community spouse was eligible for a CSA to equal \$1,041.57 per month. (Department's Exhibit 5)(Department's Exhibit 7: *Community Spouse Allowance Calculation*, undated)
15. For the months from [REDACTED] 2014 through [REDACTED] 2014, the Department determined that the Appellant's community spouse was eligible for a CSA to equal \$1,074.57 per month. (Department's Exhibit 5)
16. The Appellant's community spouse resides alone in her private residence at [REDACTED] [REDACTED] in [REDACTED] (the "residence"). (Appellant's community spouse's testimony)
17. The Appellant's community spouse does not provide constant and essential care for a disabled child, sibling, or other immediate relative. (Appellant's community spouse's testimony)
18. In 2013, the Appellant's community spouse was a full-time [REDACTED] optometric technician, making \$13.00 per hour; her hours varied per week. (Appellant's community spouse's testimony)(Department's Exhibit 2: Wage stubs, varying dates)
19. The Department calculated the Appellant's community spouse's average gross monthly income from employment to equal \$1,856.43 in 2013. (Department's representative's testimony)(Department's Exhibit 7)
20. The Appellant's community spouse has medical insurance through her employer. (Department's Exhibit 2)(Department's Exhibit 3: *Medical Insurance Information*, due [REDACTED]/13)(Appellant's Exhibit B)
21. The Appellant's community spouse has mortgages with First Niagara and Santander on her residence. (Department's Exhibit 4: Mortgages, varying dates)(Appellant's community spouse's testimony)
22. In [REDACTED] 2013, the Appellant's community spouse's First Niagara mortgage payment was \$1,049.94 per month toward principal and interest; the remaining principal equaled \$56,811.79. (Department's Exhibit 4)

23. The varying amount of monthly escrow payment associated with the Appellant's community spouse's First Niagara mortgage pays the residence's property taxes. (Appellant's community spouse's testimony)(Department's Exhibit 4)
24. In 2013, the Appellant's community spouse's residence's property taxes equaled \$4,032.08. (Department's Exhibit 4)
25. As of [REDACTED] 2014, the Appellant's community spouse's Santander mortgage payment was \$213.17 per month for interest only; the remaining principal equaled \$57,763.70. (Department's Exhibit 4)
26. From [REDACTED] 2013 through [REDACTED] 2014, the Appellant's community spouse's home owner's policy premium equaled \$1,742.00. (Department's Exhibit 4)
27. The Appellant's community spouse is seeking an increase in her CSA to pay for projected costs of the maintenance of her home, to replace a roof and fix a chimney, to pay for her out-of-pocket medical expenses, and to pay for her nutritional supplements. (Appellant's community spouse's testimony)
28. The Appellant's community spouse has a potentially progressive chronic corneal condition which may impact her ability to read and drive. (Appellant's Exhibit B)
29. The Appellant's community spouse drives herself to work. (Appellant's community spouse's testimony)
30. The Appellant's community spouse is followed by Nova Counseling, for treatment of her anxiety, panic attacks, impaired sleep, and concentration problems. (Appellant's Exhibit B)
31. The Appellant's community spouse was last hospitalized in 2010, for bilateral mastectomies with reconstruction. (Appellant's community spouse's testimony)(Appellant's Exhibit B)
32. The Appellant's community spouse has chronic infections and urogenital atrophy. (Appellant's Exhibit C)
33. The Appellant's community spouse has a personal history of precancerous colon polyps, gastric polyps, and gastroesophageal reflux disease. (Appellant's Exhibit B)
34. The Appellant's community spouse's gastroenterologist recommends that the Appellant's community spouse have a surveillance colonoscopy every three years and regular endoscopic surveillance as disease prevention. (Appellant's Exhibit B)
35. The Appellant's community spouse has significant osteoporosis of the spine and moderate osteopenia of the hips. (Appellant's Exhibit C: Fax, [REDACTED]/14)
36. The Appellant has never suffered a broken bone. (Appellant's community spouse's testimony)

37. The Appellant's community spouse's physician has encouraged the Appellant maintain physical activity to maintain her bone health. (Appellant's Exhibit B)
38. For two years, the Appellant's community spouse was being treated by a [REDACTED] Physical Therapy physical therapist for the purpose of monitoring and correcting her exercise and strength training regime and provide continuing physical therapy guidance. (Appellant's Exhibit B)
39. The Appellant's community spouse's physical therapist recommended that the Appellant's community spouse continue physical therapy, medical massage therapy, and maintain a gym membership in order to access strength training equipment to treat her low bone density. (Appellant's Exhibit B)
40. In [REDACTED] 2014, the Appellant's community spouse stopped seeing her physical therapist, as the physical therapist was charging her \$30.00 per visit, which was out-of-pocket and not covered by her insurance. (Appellant's community spouse's testimony)
41. The Appellant's community spouse attends a gym three times a week to use the weight machines. (Appellant's community spouse's testimony)
42. The Appellant's community spouse takes over-the-counter vitamins, including liquid calcium, multivitamin and vitamin D supplements as well as other nutritional supplements to maintain her current level of health. (Appellant's community spouse's testimony)(Appellant's Exhibit B)
43. The Appellant's community spouse has allergies, for which she uses prescription nasal sprays. (Appellant's community spouse's testimony)
44. From [REDACTED] 2013 through [REDACTED] 2014, the Appellant's community spouse had prescriptions filled for: proctosol-hc 2.5% cream, prednisone, neo-poly-dex eye ointment, nasonex, naftin 1% gel, moviprep powder packet, lotemax 0.5% eye drops, ketoconazole 2% cream, hydrocortisone AC, fluticasone prop .05% cream, fluconazole tablet, dexilant dr capsule, clonazepam, cephalexin, azithromycin dose pack, azelastine .15% nasal spray, and astepro .15% nasal spray. (Appellant's Exhibit B)
45. The Appellant's community spouse is independent with the following activities of daily living: bathing, dressing, self-feeding, personal hygiene, and toileting. (Appellant's community spouse's testimony)
46. The Appellant has one of her daughters help her with the heavy cleaning and yard work. (Appellant's community spouse's testimony)

CONCLUSIONS OF LAW

1. A conservator of the estate appointed under section 45a-646, 45a-650 or 45a-654 shall, within two months after the date of the conservator's appointment, make and file in the Court of Probate, an inventory, under penalty of false statement, of the estate of the conserved person, with the properties thereof appraised or caused to be appraised, by such conservator, at fair market value as of the date of the conservator's appointment.

Such inventory shall include the value of the conserved person's interest in all property in which the conserved person has a legal or equitable present interest, including, but not limited to, the conserved person's interest in any joint bank accounts or other jointly held property. The conservator shall manage all the estate and apply so much of the net income thereof, and, if necessary, any part of the principal of the property, which is required to support the conserved person and those members of the conserved person's family whom the conserved person has the legal duty to support and to pay the conserved person's debts, and may sue for and collect all debts due the conserved person. The conservator shall use the least restrictive means of intervention in the exercise of the conservator's duties and authority. Conn. Gen. Stat. § 45a-655 (a).

2. Any conservator of the estate of a married person may apply such portion of the property of the conserved person to the support, maintenance and medical treatment of the conserved person's spouse which the Court of Probate, upon hearing after notice, decides to be proper under the circumstances of the case. Conn. Gen. Stat. § 45a-655 (b).
3. In the case of any person receiving public assistance, state-administered general assistance or Medicaid, the conservator of the estate shall apply toward the cost of care of such person any assets exceeding limits on assets set by statute or regulations adopted by the Commissioner of Social Services. Notwithstanding the provisions of subsections (a) and (b) of this section, in the case of an institutionalized person who has applied for or is receiving such medical assistance, no conservator shall apply and no court shall approve the application of (1) the net income of the conserved person to the support of the conserved person's spouse in an amount that exceeds the monthly income allowed a community spouse as determined by the Department of Social Services pursuant to 42 USC 1396r-5(d)(2)-(4), or (2) any portion of the property of the conserved person to the support, maintenance and medical treatment of the conserved person's spouse in an amount that exceeds the amount determined allowable by the department pursuant to 42 USC 1396r-5(f)(1) and (2), notwithstanding the provisions of 42 USC 1396r-5(f)(2)(A)(iv), unless such limitations on income would result in significant financial duress. Conn. Gen. Stat. § 45a-655 (d).
4. As a Medicaid recipient, the Appellant is an individual who falls within the scope of Conn. Gen. Stat. § 45a-655 (d).
5. Upon application of a conservator of the estate, after hearing with notice to the Commissioner of Administrative Services, the Commissioner of Social Services and to all parties who may have an interest as determined by the court, the court may authorize the conservator to make gifts or other transfers of income and principal from the estate of the conserved person in such amounts and in such form, outright or in trust, whether to an existing trust or a court-approved trust created by the conservator, as the court orders to or for the benefit of individuals, including the conserved person, and to or for the benefit of charities, trusts or other institutions described in Sections 2055(a) and 2522(a) of the Internal Revenue Code of 1986, or any corresponding internal revenue code of the United States, as from time to time amended. Such gifts or transfers shall be authorized only if the court finds that: (1) In the case of individuals not related to the conserved person by blood or marriage, the conserved person had made a previous gift to that unrelated individual prior to being declared incapable; (2) in the case of a charity,

either (A) the conserved person had made a previous gift to such charity, had pledged a gift in writing to such charity, or had otherwise demonstrated support for such charity prior to being declared incapable; or (B) the court determines that the gift to the charity is in the best interests of the conserved person, is consistent with proper estate planning, and there is no reasonable objection by a party having an interest in the conserved person's estate as determined by the court; (3) the estate of the conserved person and any proposed trust of which the conserved person is a beneficiary is more than sufficient to carry out the duties of the conservator as set forth in subsections (a) and (b) of this section, both for the present and foreseeable future, including due provision for the continuing proper care, comfort and maintenance of such conserved person in accordance with such conserved person's established standard of living and for the support of persons the conserved person is legally obligated to support; (4) the purpose of the gifts is not to diminish the estate of the conserved person so as to qualify the conserved person for federal or state aid or benefits; and (5) in the case of a conserved person capable of making an informed decision, the conserved person has no objection to such gift. The court shall give consideration to the following: (A) The medical condition of the conserved person, including the prospect of restoration to capacity; (B) the size of the conserved person's estate; (C) the provisions which, in the judgment of the court, such conserved person would have made if such conserved person had been capable, for minimization of income and estate taxes consistent with proper estate planning; and (D) in the case of a trust, whether the trust should be revocable or irrevocable, existing or created by the conservator and court approved. The court should also consider the provisions of an existing estate plan, if any. In the case of a gift or transfer in trust, any transfer to a court-approved trust created by the conservator shall be subject to continuing probate court jurisdiction in the same manner as a testamentary trust including periodic rendering of accounts pursuant to section 45a-177. Notwithstanding any other provision of this section, the court may authorize the creation and funding of a trust that complies with section 1917(d)(4) of the Social Security Act, 42 USC 1396p(d)(4), as from time to time amended. The provisions of this subsection shall not be construed to validate or invalidate any gifts made by a conservator of the estate prior to October 1, 1998. Conn. Gen. Stat. § 45a-655 (e).

6. Section 5000.01 of the Department's Uniform Policy Manual ("UPM") provides definitions of terms used within the chapter. This section includes the following definitions:

Applied Income. Applied income is that portion of the assistance unit's countable income that remains after all deductions and disregards are subtracted.

Community Spouse. A community spouse is an individual who resides in the community, who does not receive home and community based services under a Medicaid waiver, who is married to an individual who resides in a medical facility or long-term care facility or who receives home and community based services (CBS) under a Medicaid waiver.

Institutionalized Spouse. An institutionalized spouse is a spouse who resides in a medical facility or long-term care facility, or who receives home and Community Based Services (CBS) under a Medicaid waiver, and who is legally married to someone who does not reside in such facilities or who does not receive such services.

7. 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.

8. 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 LTCF care or receipt of community-based services occurs, and ending with the month in which the assistance unit member is discharged from the LTCF or community-based services are last received. UPM § 5045.20 (A).
9. For each month in the six month period for which the contribution is projected, monthly gross income is established as follows: (1) 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; (2) any additional counted income expected in the period for which the contribution is projected, is divided by six; (3) any amount of the counted income received in the previous six months, but not expected to be received in the period for which the contribution is projected, is divided by six. The resulting figure is subtracted from the total of the amounts calculated in (1) and (2), above. UPM § 5045.20 (B)(1)(a).
10. 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)(b).
11. The difference between the assistance unit's contribution and the Medicaid rate of the LTCF or CBS is the amount of benefits paid by the department to the facility or provider organization on the unit's behalf. UPM § 5045.20 (D).
12. For resident of long term care facilities (LTCF) and those individuals receiving community-based services (CBS) when the individual has a spouse living in 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. UPM § 5035.25.
13. UPM § 5035.20 (B) provides the allowable deductions for LTCF units. The following monthly deductions are allowed from the income of assistance units in LTCF's: 1. a personal needs allowance 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; 2. a Community Spouse Allowance (CSA), when appropriate; (Cross Reference 5035.30) 3. a Community Family Allowance (CFA), when appropriate; (Cross Reference 5035.35) 4. Medicare and other health insurance premiums, deductibles, and coinsurance costs when not paid for the Department or any other third 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; 6. expenses for services provided by a licensed medical provider in the six month period immediately preceding the first month of eligibility providing the following conditions are met: a. the expenses were not for LTCF services, services provided by a medical institution equivalent to those provided in a long term care facility, or home and community-based services, when any of these services were incurred during a penalty period resulting from an improper transfer of assets; and b. the recipient is currently

liable for the expenses; and c. the services are not covered by Medicaid in a prior period of eligibility.

14. The CSA is equal to the greater of the following: a. the difference between the Minimum Monthly Needs Allowance (MMNA) and the community spouse gross monthly income; or b. the amount established pursuant to court order for the purpose of providing necessary spousal support. UPM § 5035.30 (B)(1).
15. As of the date of these proceedings, a court has not established an amount, pursuant to a court order, for the purpose of providing necessary spousal support, with respect to the Appellant, that complies with Conn. Gen. Stat. §§ 45a-655 (d) and 45a-655 (e).
16. The community spouse's monthly shelter cost includes: a. rental costs or mortgage payments, including principle and interest; and b. real estate taxes; and c. real estate insurance; and d. required maintenance fees charged by condominiums or cooperatives except those amounts for utilities; and e. Standard Utility Allowance (SUA) used in the FS program for the community spouse. UPM § 5035.30 (B)(4).
17. From [REDACTED] 2012 through [REDACTED] 2013, Connecticut's SUA equaled \$668.00 per month.
18. For the purposes of a CSA calculation, the Appellant's community spouse's shelter costs equal \$2,412.29 for the period from [REDACTED] 2013 through [REDACTED], 2013.
19. The community spouse's excess shelter cost 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 Federal Poverty Level for a unit of two persons. UPM § 5035.30 (B)(3).
20. In 2013, one hundred percent of the Federal Poverty Level for two equaled \$15,510.00.
21. For the purposes of a CSA calculation, the Appellant's community spouse's excess shelter costs equal \$1,830.66.
22. The MMNA is that amount which is equal to the sum of: a. the amount of the community spouse's excess shelter cost as calculated in section 5035.30 B.3.; and b. 150 percent of the monthly poverty level for a unit of two persons. UPM § 5035.30 (B)(2).
23. The MMNA may not exceed the greatest of either: a. the maximum MMNA; or b. an amount established through a Fair Hearing. UPM § 5035.30 (B)(5).
24. From [REDACTED] 2013 through [REDACTED], 2013, the maximum MMNA equaled \$2,898.00.
25. The Department correctly imposed the maximum MMNA cap of \$2,898.00 in its initial calculation of the Appellant's community spouse's CSA.
26. 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. UPM § 1570.25 (D)(3).

27. Exceptional circumstances are those that are severe and unusual and that: (1) prevent the community spouse from taking care of his or her activities of daily living; or (2) directly threaten the community spouse's ability to remain in the community; or (3) 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). UPM § 1570.25 (D)(3)(a).
28. The Appellant's community spouse's age does not prevent her from taking care of her own activities of daily living.
29. The Appellant's community spouse's age does not directly threaten her ability to remain in the community.
30. The Appellant's community spouse's age is not an exceptional circumstance, as defined by UPM § 1570.25 (D)(3)(a).
31. The Appellant's community spouse's medical conditions do not prevent her from taking care of her own activities of daily living.
32. The Appellant's community spouse's medical conditions do not directly threaten her ability to remain in the community.
33. The Appellant's community spouse's medical conditions do not put her at risk for institutionalization.
34. The Appellant's community's spouse's medical conditions are not exceptional circumstances, as defined by UPM § 1570.25 (D)(3)(a).
35. Significant financial duress is an expense or set of expenses that: (1) directly arises from the exceptional circumstances described in subparagraph a above; and (2) is not already factored into the MMNA; and (3) cannot reasonably be expected to be met by the community spouse's own income and assets. UPM § 1570.25 (D)(3)(b).
36. The Appellant's community spouse does not have significant financial duress, as defined by UPM § 1570.25 (D)(3)(b).
37. 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. UPM § 1570.25 (D)(3)(d).
38. Because the Appellant and his community spouse have not met the criteria set in UPM § 1570.25 (D)(3), the Fair Hearing official cannot increase the Appellant's community spouse's MMNA beyond the cap of \$2,898.00 per month.
39. The Department correctly determined that the Appellant's community spouse's CSA was \$1,041.57 effective [REDACTED] 2013.

40. The Appellant's community spouse is not eligible for an increase in the CSA beyond that calculated by the Department.

DISCUSSION

The Appellant's community spouse argued that her age (58 years), history as a breast cancer survivor, and current medical conditions associated with low bone density were exceptional circumstances that should be used by the hearing officer to increase the community spouse's MMNA beyond the cap of \$2,898.00 per month. The Appellant's community spouse stated that she required over-the-counter vitamins and nutritional supplements, not covered by her employer's medical insurance plan, causing her significant financial duress. The Appellant's community spouse's argument is unpersuasive.

As a middle-aged individual employed full-time who was independent in her activities of daily living, the Appellant's community spouse was at a *lesser* risk of institutionalization than a medically frail, elderly individual. Her argument that her age placed her at a disadvantage in comparison to a more medically frail, less mobile elderly individual is counterintuitive.

In any case, the Appellant's community spouse's situation did not meet the criteria of "exceptional circumstances," as defined by UPM § 1570.25 (D)(3)(a). The hearing officer therefore cannot raise the Appellant's community spouse's MMNA beyond the cap of \$2,898.00 per month.

In the alternative, the Appellant's community spouse argued that the probate court's 2012 appointment of her as the Appellant's conservator of estate and her pursuit of her duties as the Appellant's conservator was the equivalent of a court order for an amount of spousal support, as provided by UPM § 5035.30 (B)(1).

As of the date of these proceedings, a court has not established an amount, pursuant to a court order, for the purpose of providing necessary spousal support, with respect to the Appellant, that complies with Conn. Gen. Stat. §§ 45a-655 (d) and 45a-655 (e). The Appellant's community spouse's argument is unsupported by state statutes and regulations governing court orders for spousal support with respect to Medicaid recipients.

DECISION

The Appellant's appeal is DENIED.



Eva Tar
Hearing Officer

Cc: Attorney [REDACTED]
[REDACTED]
Phil Ober, DSS-New Britain (52)
Tyler Nardine, DSS-New Britain (52)

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.