

STATE OF CONNECTICUT  
DEPARTMENT OF SOCIAL SERVICES  
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS  
55 FARMINGTON AVENUE  
HARTFORD, CT 06105-3725

██████████ 2015  
SIGNATURE CONFIRMATION

CLIENT ID #: ██████████  
HEARING ID#: 695109

NOTICE OF DECISION

PARTY

██████████  
c/o ██████████  
██████████  
██████████

PROCEDURAL BACKGROUND

On ██████████ 2015, the Department of Social Services (the "Department") sent ██████████, the Power of Attorney's spouse ("POA spouse") a Notice of Applied Income on behalf of ██████████ ("Appellant") stating that his cost towards his long term medical care (applied income) will increase from \$27.10 to \$1,597.00 per month effective ██████████ 2015.

On ██████████ 2015, ██████████, Power of Attorney ("POA") requested an administrative hearing to contest the determination of the amount of applied income that the Appellant has to pay towards his care.

On ██████████ 2015, the Office of Legal Counsel, Regulations, and Administrative Hearings, ("OLCRAH") sent a Notice of Administrative Hearing scheduling a hearing for ██████████ 2015.

On ██████████ 2015, 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:

██████████, POA  
██████████ POA spouse  
Saya Miyakoshi, Department's Representative

Karen Brown, Hearing Officer

**STATEMENT OF THE ISSUE**

The issue to be decided is whether the Department correctly increased the amount of the Appellant's monthly applied income.

A separate decision will be issued addressing the discontinuance of the Appellant's Long Term Care benefits.

**FINDINGS OF FACT**

1. The Appellant resides in a nursing facility. (Department's Testimony)
2. The Appellant has a community spouse, [REDACTED]. (Record)
3. On [REDACTED] 2014, Meadowbrook of Granby resided the community spouse with long term care approval. (Exhibit 1: Ascend documentation for the community spouse).
4. On [REDACTED] 2015, the Department reviewed the Appellant's redetermination for his Long Term Care (LTC) Medicaid benefits and became aware that the community spouse resided in a nursing home as a long term care resident. (Exhibit 2: Appellant's W-1LTC redetermination)
5. On [REDACTED] 2015, the Department removed the community spouse allowance (CSA) from the Appellant's LTC Medicaid benefit calculations. (Hearing Summary)
6. On [REDACTED] 2015, the Department sent the Appellant a Notice indicating that his cost towards his long term care increased from \$27.10 to \$1,597.00 per month effective [REDACTED] 2015 because his spouse is in a long term care facility. (Exhibit 3: Department's notice [REDACTED]-15)
7. The spouse no longer resides in the community. (Fact #3)
8. The Appellant receives \$1,657.00 per month in Social Security benefits. (Exhibit 4: Social Security award letter)
9. The Appellant receives \$1,657.00 in total unearned income. (Fact #7)
10. The Appellant receives a monthly allowable deduction of \$60.00 as his personal needs allowance ("PNA"). (Hearing Summary)

**CONCLUSIONS OF LAW**

1. Section 17b-2 of the Connecticut General Statutes (“CGS”) authorizes the Commissioner of the Department of Social Services to administer the Medicaid program.

2. Uniform Policy Manual (“UPM”) Section 5000.01 provides the following definitions:

**Available income** is all income from which the assistance unit is considered to benefit, either through actual receipt or by having the income deemed to exist for its benefit.

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

**Counted income** is that income which remains after excluded income is subtracted from the total of available income.

**Deductions** are those amounts which are subtracted as adjustments to counted income and which represent expenses paid by the assistance unit.

**Disregards** are those amounts which are subtracted as standard adjustments to countable income and which do not represent expenses paid by the assistance unit.

3. UPM Section 5005.C provides that the Department computes applied income by subtracting certain disregards and deductions, as described in this section, from counted income.

4. UPM Section 5005.D provides that the Department uses the assistance unit's applied income to determine income eligibility and to calculate the amount of benefits.

5. The Department correctly determined the applicant's total monthly gross unearned income as \$1,657.00.

6. UPM Section 5035.25 provides that for residents of long term care facilities (LTCF) and those individuals receiving community-based services (CBS) when the individual has 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.

7. UPM Section 5035.25.B provides that 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)

4. Medicare and other health insurance premiums, deductibles, and coinsurance costs when not paid for the Department or any other third party;
8. The Department correctly provided to the Appellant a \$60.00 personal needs allowance (PNA) deduction.
9. UPM Section 5045.10.C.1 provides that except for determining AABD eligibility and benefit amounts for individuals residing in long term care facilities, applied unearned income is calculated by reducing the gross unearned income amount by the appropriate disregard based upon living arrangements.
10. The Department correctly calculated the applicant's monthly applied income by applying all appropriate deductions and disregards to calculate the amount of income which is to be applied towards his monthly cost of care.
11. UPM Section 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.
12. As a resident of a LTCF, the applicant is responsible for contributing a portion of his income towards the monthly cost of his care.
13. UPM Section 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 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.
14. UPM Section 5045.20.B.1.b provides 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.
15. The Department correctly calculated, effective [REDACTED] 2015, the Appellant's monthly applied income of \$1,597.00 (\$1,657.00 unearned income minus \$60.00 PNA).
16. UPM Section 5045.20.D provides that 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.
17. The Appellant's monthly applied income of \$1,597.00 must be paid towards the cost of his care, effective [REDACTED] 2015.

**DISCUSSION**

The POA testified that his intent is for the spouse to return back to the community and he is still paying rent for spouse at her apartment. The Department provided the Appellant with a 6-month rental diversion under the pretense that his spouse would return home, but she has not as of yet. The Department correctly removed the Community Spousal Allowance, which increased the amount of his countable income towards his care cost.

**DECISION**

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

A handwritten signature in black ink, appearing to read "Karen B", with a long horizontal line extending to the right from the end of the signature.

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Karen Brown  
Hearing Officer

Pc: Musa Mohamed, Elizabeth Thomas, Managers; Saya Miyakoshi, FHL, Hartford RO

### **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, 55 Farmington Avenue, Hartford, CT 06105-3725.

### **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.