

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

██████████ 2016
Signature Confirmation

Client ID # ██████████
Request #759087

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2016, the Department of Social services the (“Department”) issued a notice to ██████████ (“the Appellant”) regarding the amount of applied income owing to the facility in which he resides.

On ██████████ 2016, the Appellant requested an administrative hearing to contest the Department’s determination of the applied income amount he owes to the facility each month.

On ██████████ 2016, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling an administrative hearing for ██████████ 2016.

On ██████████ 2016, 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 Wife
Kenneth Smiley, Department’s Representative
Pamela J. Gonzalez, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether the Department has correctly calculated the amount of monthly applied income that the Appellant is responsible to pay to the facility toward the cost of his care.

FINDINGS OF FACT

1. The Appellant resides in a long-term care facility (Hearing record)
2. The Appellant is a Title XIX long-term care Medicaid recipient. (Hearing record)
3. The Appellant receives Social Security income in the gross monthly amount of \$1,389.90. (Hearing record)
4. The Appellant pays \$104.90 per month for his Medicare Part B premium. (Hearing record)
5. The Appellant receives a [REDACTED] pension from the [REDACTED] in the average gross monthly amount of \$1,839.53. (Pension stubs – Department's exhibit 9)
6. The Appellant is married. His spouse resides in the community. (Hearing record)
7. The Appellant's community spouse is employed by the [REDACTED]. Her average monthly gross earned income totals \$5,963.79. (2015 W-2 Form – Department's exhibit 12)
8. The Appellant's community spouse pays a mortgage in the monthly amount of \$760.00. (Page 6 of W-1ER Form – Department's exhibit 13)
9. The Appellant's community spouse pays homeowner's insurance in the monthly amount of \$63.25. (Department's exhibit 13)
10. The Appellant's community spouse pays property taxes in the monthly amount of \$200.00, (Department's exhibit 13)
11. The Appellant's community spouse pays dental and medical premiums in the monthly amount of \$320.78 per month for both herself and her husband. (Wage stubs – Department's exhibit 7)
12. On [REDACTED] 2016, the Department updated the amount of the Appellant's teacher's pension in its Eligibility Management System reflecting the monthly figure of \$1,824.03. (Eligibility Management System NARR screen print – Department's exhibit 4)
13. On [REDACTED] 2016, the Department recalculated the Appellant's monthly applied income for the period of [REDACTED] 2015 – [REDACTED] 2016 allowing for a medical payment deduction of \$265.29. (Eligibility Management System

MAFI screen print – Department’s exhibit 5, Excerpt from ██████ 2016 letter – Department’s exhibit 6)

14. On ██████ 2016, the Department sent written notice to the Appellant informing him that it had determined that he owed applied income in the amount of \$2,935.50 per month for the period of ██████ 2015 – ██████ 2016. (Department’s exhibit 6)
15. On ██████ 2016, the Department sent written notice to the Appellant that it had determined that he owed applied income in the amount of \$2,888.64 per month effective ██████ 2016. (Department’s exhibit 6)
16. On ██████ 2016, the Department updated the Appellant’s teacher’s pension income and reflected an average amount based upon five months of income. (Pension stubs – Department’s exhibit 9, Eligibility Management System MAFI screen print – Department’s exhibit 10)
17. The Department determined that the Appellant owed applied income in the amount of \$2,904.14 per month effective ██████ 2016. (Notice dated ██████ 2016 - Department’s exhibit 10)
18. On ██████ 2016, the Department issued a notice to the Appellant to inform him that effective ██████ 2016, he would be responsible to pay applied income to the facility in which he resides of \$2,904.14. (Department’s exhibit 10)
19. As part of its applied income determination, the Department completed a Community Spouse Allowance (“CSA”) calculation. (Calculation Worksheet – Department’s exhibit 14)
20. The Department determined that based upon the Appellant’s Community Spouse’s income and her expenses, she does not qualify for a CSA.

CONCLUSIONS OF LAW

1. Sections 17b-2 of the Connecticut General Statutes authorizes the Department of Social Services to administer the Medicaid program pursuant to Title XIX of the Social Security Act.
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. UPM § 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.
4. The Department correctly determined that the Appellant is responsible to contribute toward the cost of his care at the facility in which he resides.
5. UPM § 5045.20 B (1) (a) provides that 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.
6. The Department correctly determined that effective [REDACTED] 2016; the Appellant's monthly gross income totals \$3,229.43. (\$1,389.90 Social Security + \$1,839.53 Pension).
7. UPM § 5045.20 (B) (1) (b) 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.
8. UPM § 5035.25 (B) (1) 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.
9. UPM § 5035.25 (B) (4) 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.
10. The Department correctly determined that effective [REDACTED] 2016; the Appellant's monthly applied income totals \$2,904.14 (\$3,229.43 gross income minus \$60.00 PNA - \$265.29 medical premium and Medicare premium costs).
11. UPM § 5035.30(A)(1) provides that the CSA is used as an income deduction in the calculation of the post-eligibility applied income of an institutionalized spouse (IS) only when the IS makes the allowance available to the community spouse (CS) or for the sole benefit of the CS.
12. UPM § 5035.30(B) provides the calculation of the CSA.
 1. 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.
 2. 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.
 3. 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 poverty level for a unit of two persons.
 4. 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.
 5. The MMNA may not exceed the greatest of either:
 - a. the maximum MMNA; or
 - b. an amount established through a Fair Hearing.
13. The Department correctly determined that the Appellant's community spouse's gross income exceeds her MMNA.
14. The Department correctly determined that the Appellant's community spouse is not currently eligible for a CSA.
15. The Department correctly determined that the Appellant is not eligible for a CSA income deduction.

DECISION

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

Pamela J. Gonzalez
Pamela J. Gonzalez
Hearing Officer

Copy: Tonya Cook-Beckford-, SSOM, DSS, R.O. #42, Willimantic
Kenneth Smiley, ESW, DSS, R.O. #42, Willimantic

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.

