

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

██████████ 2018  
Signature Confirmation

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

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████, 2018, ██████████, (the "Appellant" and the "Community Spouse") requested an administrative hearing to contest the Department's discontinuance of her Community Spouse Allowance ("CSA") that she retains from her spouse's, ██████████ (the "Institutionalized Spouse") applied income.

On ██████████ 2018, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████, 2018.

On ██████████ 2018, 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:

██████████, the Appellant and Community Spouse  
██████████, Appellant's friend and witness  
Lori McDonald, Department's Representative, by telephone  
Garfield White, Department's Representative  
Scott Zuckerman, Hearing Officer

The Appellant was not present at the administrative hearing as he is currently institutionalized at the ██████████.

## **STATEMENT OF THE ISSUE**

The issue is whether the Department correctly discontinued the Appellant's CSA that she retained from her spouse's applied income, on request of the Institutionalized Spouse.

## **FINDINGS OF FACT**

1. On [REDACTED] [REDACTED] 2017, the Department granted Long Term Care Medicaid assistance to the Appellant's spouse who is a resident of the [REDACTED] Nursing facility. (Hearing Summary)
2. The Appellant resides in the community. (Hearing Record)
3. Effective [REDACTED] 2017, the Appellant retained \$709.00 from her spouse's applied income for her CSA. (Hearing Record)
4. On [REDACTED] 2018, the Appellant's spouse requested the Appellant be removed as his authorized representative. (Hearing Summary, Exhibit 2: Letter from the Appellant's spouse dated [REDACTED] 2018)
5. On [REDACTED] 2018, the Department received a letter from the Appellant's spouse requesting his income no longer be sent to the Appellant for her CSA. (Hearing Summary and Exhibit 1: Letter from the Appellant's spouse dated [REDACTED] 2018)
6. Effective [REDACTED] [REDACTED] 2018, the CSA was removed. (Hearing Summary, Appellant's testimony)

## **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") § 5035.25 (B) (2) provides a monthly deduction for LTCF units of a Community Spouse Allowance ("CSA"), when appropriate. (Cross Reference § 5035.30)


42 U.S.C.A § 1396r-5 (d)(1)(B) provides for protecting income for community spouse and states that a community spouse monthly income allowance (as defined in paragraph (2) ), but only to the extent income of the institutionalized spouse is made available to (or for the benefit of ) the community spouse.

UPM § 5035.30 (A) provides 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.

**The Department correctly discontinued the Appellant's CSA when the Appellant's spouse no longer made the allowance available to her.**

**DECISION**

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

  
Scott Zuckerman  
Hearing Officer

Pc: Musa Mohamud, Operations Manager, Hartford Regional Office  
Judy Williams, Operations Manager, Hartford Regional Office  
Jessica Carroll, Operations Manager, Hartford Regional Office  
Jay Bartolomei, Fair Hearing Liaison, Hartford Regional Office  
Lori McDonald, Fair Hearing Liaison, Waterbury 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 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.