

STATE OF CONNECTICUT  
DEPARTMENT OF SOCIAL SERVICES  
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS  
55 FARMINGTON AVENUE  
HARTFORD, CT 06105-3730

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

Client ID # ██████████  
Request #127989

NOTICE OF DECISION  
PARTY

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

PROCEDURAL BACKGROUND

On ██████████, the Department of Social Services (the "Department") sent ██████████ (the "Recipient") a notice stating that she must pay \$1733 each month in applied income ("AI") toward the cost of her long-term care.

On ██████████, (the "Appellant") daughter and Power of Attorney for ██████████ requested an administrative hearing to contest the Department's calculation of the AI, specifically because the Department was not considering an allowance for the Recipient's spouse.

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, daughter of Nancy Platt, Medicaid recipient residing in a skilled nursing facility  
██████████ Jewish Senior Services  
Noel Lord, DSS Hearing Liaison, Stamford Regional Office, participating via teleconference  
Sinseara Mercado, DSS Hearing Liaison, Bridgeport Regional Office  
Maureen Foley-Roy, Hearing Officer

The hearing office held the hearing record open for the submission of additional evidence. On [REDACTED] [REDACTED] 2018, the record closed.

### **STATEMENT OF THE ISSUE**

The issue is whether the Department was correct when it determined that the Recipient must pay \$1733 in applied income to the skilled nursing facility where she resides because the Department's calculation did not provide for a spousal allowance.

### **FINDINGS OF FACT**

1. On [REDACTED], employee of the Jewish Senior Services and authorized representative for the Recipient completed a renewal of eligibility form and returned it to the Department with a note requesting retro coverage for [REDACTED] 2017. (Exhibit A: Renewal of Eligibility form signed on [REDACTED] [REDACTED] 2018)
2. The renewal form that was provided in [REDACTED] of 2018 did not respond to questions regarding the income and expenses of the Recipient's spouse in the community. The form did not have proof of the community spouse's income and expenses attached, as directed on the form.(Exhibit A)
3. The Department's previous records indicate that the Recipient's spouse has income from Social Security and monthly income from an asset, an IRA distribution. ( Exhibit J: Unearned Income Summary)
4. On [REDACTED] [REDACTED] [REDACTED], the Department sent a Proofs We Need form requesting proof of the Recipient's medical insurance premium bill and her spouse's full name, date of birth, social security number, rent/mortgage bill, property taxes, homeowner's insurance bill, and condo fees by [REDACTED] [REDACTED] 2018 in order to recalculate spousal allowance. (Exhibit B: W1348 Proofs We Need dated [REDACTED]/[REDACTED]/2018)
5. On [REDACTED], the Department sent a Proofs We Need form requesting proof of the Recipient's medical expenses, proof of marital status and homeowner's insurance, real estate taxes and proof of income for her spouse or proof of dividends or any pension income by [REDACTED] [REDACTED] 2018. (Exhibit C: W1348 Proofs We Need form dated [REDACTED]/[REDACTED]/2018)
6. On [REDACTED], the Department approved Medicaid for Long Term Care assistance for the Recipient effective [REDACTED] [REDACTED] 2017. The notice stated that the Recipient must pay \$1698 toward the cost of her care for [REDACTED] 2017 and \$1,733 each month toward the cost of her care beginning in [REDACTED] of 2018. The Department did not calculate a community spouse allowance because it had not received proof of the community spouse's



15. On [REDACTED], the Department issued a notice to the Recipient advising her that the applied income was \$1657 per month effective [REDACTED] 2018 and going forward. (Exhibit R)

### 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 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 § 1010.05 (A) (1) provides that the assistance unit must supply the Department in an accurate and timely manner as defined by the Department, all pertinent information and verification which the Department requires to determine eligibility and calculate the amount of benefits.
4. UPM § 1015.05 C states that the Department must tell the assistance unit what the unit has to do to establish eligibility when the Department does not have sufficient information to make an eligibility determination.

**The Department correctly issued W1348-Verification We Need forms requesting verification of the Recipient's medical insurance premium and proof of her spouse's income and expenses.**

5. 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.
6. UPM § 5035.25 provides that 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.
7. UPM § 5035.25 (B) (1) provides a monthly deduction for LTFC units of a personal needs allowance ("PNA") of \$50.00, which, effective [REDACTED] [REDACTED] 1999 and annually thereafter, shall be increased to reflect the annual cost of living adjustment used by the Social Security Administration.

Connecticut General Statutes § 17b-272 provides for that effective July 1, 2011, the Commissioner of Social Services shall permit patients residing in nursing homes, chronic disease hospitals and state humane institutions who are medical assistance recipients under sections 17b-260 to 17b-262, inclusive, 17b-264 to 17b-285, inclusive, and 17b-357 to 17b-361, inclusive, to have a monthly personal fund allowance of sixty dollars.

**The Department correctly allowed deductions for a PNA.**

8. 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 by the Department or any other third party.

**The Department correctly allowed deductions for the Recipient's secondary health insurance premiums once it had received documentation of the premium.**

9. UPM § 5035.25 B 2 provides for a monthly deduction for LTFC units of a CSA, when appropriate. (Cross reference 5035.30)
10. UPM § 5035.30 B1 provides for the calculation of a CSA and states that the CSA is equal to the greater of the following the: difference between the Minimum Monthly Needs Allowance (MMNA) and the community spouse gross monthly income; or the amount established pursuant to court order for the purpose of providing necessary spousal support.
11. There is no evidence that a court order was established for the purpose of providing support for the Appellant's spouse.
12. UPM § 5099.05 provides that all income must be verified as an eligibility requirement at the time of application, at each redetermination of eligibility, and whenever the income changes.
13. UPM § 5099.10 provides for the verification of deductions and states that deductions are subtracted from counted income subject to a verification of the costs by the assistance unit. Verification is not mandatory except as a condition of having the expense used as a deduction. Verification is provided when the deduction is initially claimed and, thereafter, at each time the amount of applied income is recalculated. Failure to provide verification when requested precludes continued deduction of the expense.

**The Department correctly did not allow for a community spouse allowance because it did not receive verification of the community spouse's income.**

### DISCUSSION

Regulations do allow for a community spouse allowance. In order to calculate how much of the institutionalized spouse's income the community spouse needs, the Department needs verification of the community spouse's income and certain expenses. It had been established in the past that the community spouse received social security income and had some monthly IRA distributions. The Department requested verification of the community spouse's income and never received it. Therefore the Department could not calculate a community spouse allowance. The Department was correct when it requested such verification and correct when it determined eligibility for the Recipient without allowing for the community spouse because it had not received the requested verification.

In addition to the CSA, the applied income is affected by the Recipient's medical expenses and the Department requested verification of such expenses. Evidence presented at the hearing showed that the Department had received verification of the Recipient's medical insurance premium on [REDACTED] 2018 and failed to take any action. However, the Department acted upon the receipt of the insurance premium subsequent to the hearing and the resulting change in the applied income was correctly effective for [REDACTED] of 2018.

### DECISION

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



Maureen Foley-Roy,  
Hearing Officer

Cc: Yecenia Acosta, Operations Manager, DSS Stamford  
Noel Lord, DSS Fair Hearing Liaison, Stamford  
Sinseara Mercado, DSS Fair Hearing Liaison, Bridgeport

### **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, law, and 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.

### **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.