

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

[REDACTED], 2019
Signature Confirmation

Client ID # [REDACTED]
Request # 131093

NOTICE OF DECISION
PARTY

[REDACTED]

PROCEDURAL BACKGROUND

[REDACTED], 2018, the Department of Social Services (the "Department") sent [REDACTED] (the "Appellant") a Notice of Action ("NOA") stating that effective 2018 he must pay \$903.90 each month in Patient Liability Amount ("PLA"), also known as Applied Income ("AI") towards the cost of his home care services.

[REDACTED], 2018, the Appellant requested an administrative hearing to contest the Department's calculation of the applied income amount.

[REDACTED], 2018, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice scheduling the administrative hearing for [REDACTED], 2018.

[REDACTED], 2018, in accordance with sections 17b-60, 17-61 and 4-176e to 4-189 inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing. The Appellant was not present at the hearing. The following individuals were present at the hearing:

[REDACTED], Appellant
[REDACTED], Appellant's son and Representative
Jessica Conrod, Department's Representative
Allyson Machnik, Department's Representative
Veronica King, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly calculated the applied income amount that the Appellant is responsible to pay towards the cost of his home care services.

FINDINGS OF FACT

1. The Appellant is a recipient of the State-funded Connecticut Home Care Program for Elders ("CHCP") since [REDACTED], 2010. (Department's Representative Testimony and Exhibit 1: Case Notes screen prints)
2. In [REDACTED] 2018, the Appellant received \$1, 502.00 per month in Social Security, \$1,147.46 per month in State of CT Pension. (Exhibit 2: Notice of Action, [REDACTED]/18 and Exhibit 4: Unearned screen prints)
3. The Appellant's wife resides at a Long Term Care Health Facility. She is active on the Medicaid Long Term Care services program. (Exhibit 3: Notice of Action to [REDACTED]/18)
4. The Appellant receives \$440.54 per month in Community Spouse Allowance ("CSA") from his wife's income. (Exhibit 2 and Exhibit 4)
5. Since 2010, because of a system error, the Appellant was not charge an Applied Income ("AI") also known as Patient Liability Amount ("PLA") payment responsibility. (Exhibit 1 and Department's Representative Testimony)
6. [REDACTED], 2018, the Department reviewed the Appellant's eligibility for the CHCP program. (Exhibit 1)
7. [REDACTED], 2018, the Department issued a NOA to the Appellant stating that he was approved for the State-funded CT Home Care Program Assistance and that he must pay \$903.90 per month towards the cost of his care. The notice also stated that if his situation change, the amount may change. (Exhibit)
8. The Appellant's mortgage is \$1,683.07 per month. (Appellant's Exhibit B)
9. The Appellant pays \$134.00 per month in Medicare Part B premium. (Hearing Record)
10. The Appellant's pays \$28.10 per month in WellCare medical insurance premium. (Hearing Record)

11. [REDACTED] 2018, the Federal Poverty Level for an assistance unit of one was \$1,012.00. (Federal Register)
12. [REDACTED], 2018, the Department calculated the Appellant's PLA as following: Social Security income \$1,502 + pension \$1,147.46 + CSA \$440.54= \$3,090.00 – Personal Needs Allowance \$2,024.00 – Medicare Part b premium \$134.00 – Wellcare premium \$28.10. (Exhibit 5)
13. The issuance of this decision is timely under Connecticut General Statutes 17b-61(a), which requires that a decision be issued within 90 days of the request for an administrative hearing. The Appellant requested an administrative hearing on [REDACTED] 2018. This decision, therefore, was due no later than [REDACTED], 2019. (Hearing Record)

CONCLUSIONS OF LAW

1. Section 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") § 8040.10 (A)(4) states in part that the Department screens individuals for possible participation in the Connecticut Home Care program. An individual is first screened for the Medicaid Waiver portion of this program. If the individual does not meet the eligibility criteria for participation in the Medicaid Waiver portion of this program, he or she is screened for participation in the state-funded portion of the program. Individuals in the following circumstances are screened for participation in the Connecticut Home Care program: 4. those individuals who contact the Department and want to be considered for participation in the program.
3. The Department correctly determined that the Appellant is a participant of the state-funded Connecticut Home Care program.
4. UPM § 8040.10 (D)(3)(d) states that after the plan of care is developed, the access agency or assisted living service agency determines the amount the client must contribute towards the cost of services.
5. The Department correctly determined that the Appellant is responsible for contributing a portion of his income towards the cost of his care.

6. UPM 8040.40 provides for income eligibility for the stated-funded Connecticut Home Care Program for Elders.
- (A) Excluded Income: Income which is excluded in the Medicaid program is also excluded in the Connecticut Home Care Program for Elders.
- (B) Countable Income: 1. For a single individual, gross income of the individual after any exclusions, is used solely to determine his or her contribution towards the cost of care (cross-reference: 8040.45).
2. For a married individual, gross income of the individual, after any exclusions, is used solely to determine his or her contribution towards the cost of care (cross-reference: 8040.45).
- (C) Income Limits: There is no gross income limit for an individual requesting assistance under the state-funded portion of this program.

7. UPM ("UPM") § 5000.01 provides Treatment of Income 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- Available 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.

8. UPM § 5005 (A) provides that in consideration of income, the Department counts the assistance unit's available income, except to the extent that it is specifically excluded. Income is considered available if it is:
1. Received directly by the assistance unit; or
 2. Received by someone else on behalf of the assistance unit and the unit fails to prove that is inaccessible; or
 3. Deemed by the Department to benefit the assistance unit.
9. UPM 5050.13 provides, in part, that Social Security Benefits, Veteran's Benefits are income that is treated as unearned income in all programs.

10. The Department correctly determined that the Appellant's Social security income is available and countable income.
11. The Department correctly determined that the monthly Community Spouse Allowance unearned income received by the Appellant is available and countable income.
12. UPM 5050.09 provides that (A) Payments received by the assistance unit from annuity plans, pensions and trusts are considered unearned income. (B) When the payments are received less frequently than monthly, each payment is averaged forward over the number of months for which it was intended to obtain an amount of gross monthly income. (Cross Reference: 5050.53 - Intermittent Income)
13. The Department correctly determined that the Appellant's pension is available and countable income.
14. UPM § 8040.45 (A) provides for calculation of Income Applied towards the cost of care and stated that Except for those noted in B below, the following rules are used when calculating income applied toward the cost of care:
 1. eligible individuals who receive Connecticut Home Care for Elders services under the state-funded portion of this program, are required to contribute to the cost of those services.
 2. an individual's countable income is determined using the rules found under Income Eligibility (cross-reference: 8040.40).
 3. the monthly amount that an individual must pay is the lesser of the cost of the Connecticut Home Care Program for Elders services received by the individual or the amount calculated pursuant to the methodology established for recipients of the waiver (CBS) portion of this program (cross-reference: 5035.20 and 5035.25).
15. UPM § 5035.20 provides in part for calculation of applied income and stated that those individuals receiving community-based services (CBS) when the individual does not have 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.
16. The Department correctly determined that the Appellant receives CBS and does not have a spouse living in the community.
17. UPM § 5035.20 (C) The following monthly deductions are allowed from the income of assistance units receiving Community Based Services:

1. an amount to meet the basic community maintenance needs of the individual to the extent that it is equivalent to: a. the MNIL for one person for those who are eligible under the model waiver; or b. 200% of the Federal Poverty Level for those eligible under the PAS or DMR waiver;
 2. an amount of income diverted to meet the needs of a family member who is in the community home to the extent of increasing his or her income to the MNIL which corresponds to the size of the family;
 3. Medicare and other health insurance premiums, deductibles, and coinsurance costs when not paid for by Medicaid or any other third party;
 4. expenses recognized as medical costs for which the recipient is currently liable, and which are not covered by Medicaid
18. The Department correctly deducted the Personal Needs Allowance ("PNA"), of the Appellant's total gross countable income, 200% of the Federal Poverty Level ("FPL"), FPL \$1,012.00, 200% = \$2, 024.00.
19. The Department correctly deducted the Appellant's Medicare B premium of the Appellant's total gross countable income, \$134.00.
20. The Department correctly deducted the Appellant's WellCare third party medical premium of the Appellant's total gross countable income, \$28.10.
21. On October 19, 2018, the Department correctly calculated the Appellant's monthly applied income as \$903.90. (Social Security income \$1,502.00 + pension \$1,147.46 + CSA \$440.54 = \$3,090.00 – minus PNA \$2,024.00 – Medicare premium \$134.00 – WellCare Premium \$28.10 = \$903.90 applied income)

DISCUSSION

The Appellant initially received services under the state-funded Connecticut Home Care Program for Elders without paying the applied income amount due to a system error. When the Department reviewed the Appellant's eligibility for the program, the error was identified and [REDACTED], 2018, the Department calculated the Appellant's applied income amount. Regulations are clear and

stated the Appellant is required to contribute to the cost of his home care services based on the Appellant's income and allowable expenses.

I understand the confusion regarding the applied income amount as it had not been required since the Appellant started receiving the services in 2010. At the hearing day, the Appellant provided some medical expenses not covered by Medicaid. Department could only calculate the applied income with the information that they have at the time. The Department is encouraged to review the medical expenses and determine they can be used in the calculation of the Appellant's applied income.

In essence, the Appellant's argument that the Appellant cannot pay the \$903.90 applied income due to his expenses is not binding and the Department was correct when they calculated the Appellant's \$903.90 applied income amount.

DECISION

The Appellant's appeal is **DENIED**

Veronica King
Hearing Officer

CC: Fred Presnick, Yecenia Acosta, Tim Latifi, DSS Operations Manager, DO# 30, Bridgeport.
Pamela Adams, Laurie Filippini, DSS Community Options, CO Hartford
[REDACTED], Appellant's Representative

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.