

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06106-5033

██████████ 2019
Signature Confirmation

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

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

The Department of Social Services (the “Department”) determined that effective ██████████ 2019, ██████████ (the “Appellant”) has a Community Spouse Allowance (“CSA”) of \$362.70 that is being diverted to the Appellant’s community spouse to help pay her shelter costs.

On ██████████, 2019, ██████████, the Appellant’s community spouse (the “community spouse”) requested an administrative hearing to contest the Department’s calculation of the CSA.

On ██████████ 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████, 2019.

On ██████████, 2019, 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 spouse
Mark Ioime, Director Aging Services for Town of Branford
Shayla Streater, Eligibility Services Worker, Department’s Representative
Roberta Gould, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether or not the Department has correctly calculated of the amount of the CSA being diverted to the Appellant's community spouse.

FINDINGS OF FACT

1. The Appellant was admitted to [REDACTED] long-term care facility on [REDACTED], 2019. (Exhibit 2: Letter from [REDACTED] dated [REDACTED], 2019)
2. The Appellant was granted long-term care Medicaid assistance effective [REDACTED] 2019. (Exhibit 3: Case notes and Hearing summary)
3. The Appellant receives gross Social Security benefits in the amount of \$2,086.00 per month. (Exhibit 1)
4. The Appellant receives a gross pension of \$2,997.79 per month. (Exhibit 1)
5. The community spouse receives Social Security benefits ("SSA") in the amount of \$977.50 gross per month. (Exhibit 1: W-LTC application form and Exhibit 6: Spreadsheet for community spouse allowance)
6. The community spouse has gross earnings of \$1,600.59 per month. (Exhibit 5: Wage verification and Hearing summary)
7. The community spouse pays a mortgage of \$0 per month. (Exhibit 1 and Exhibit 6)
8. The community spouse pays \$417.00 per month in property taxes for her condominium. (Exhibit 4: Documentation of household expenses and Hearing summary)
9. The community spouse pays \$52.54 per month for homeowner's insurance. (Exhibit 4 and Hearing summary)
10. The community spouse pays \$295.00 per month for Condo fees. (Exhibit 4 and Hearing summary)
11. The community spouse has car insurance and credit card debt that she pays each month. (Community spouse's testimony)
12. Effective [REDACTED] 2019, \$362.70 per month of the Appellant's income is being diverted to the community spouse to help pay shelter costs. (Exhibit 7: Notice of approval for long term care Medicaid dated [REDACTED], 2019, and Hearing summary)

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's community spouse requested an administrative hearing on [REDACTED], 2019. Therefore, this decision is due not later than [REDACTED] 2019.

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. Conn. Gen. Stat. § 17b-10 provides that "the Department's Uniform Policy Manual ("UPM") is the equivalent of a state regulation and, as such, carries the force of law."
3. UPM ("UPM") § 5035.25 provides

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.

A. Durational Use of Deductions

The deductions described below are subtracted from income:

1. beginning with the month in which the 30th day of continuous LTCF care or the receipt of community-based services occurs; and
2. ending with the month in which the unit member is discharged From the LTCF or community-based services are last received.

B. Deductions for LTCF Units

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)

3. a Community Family Allowance (CFA), when appropriate; (Cross Reference 5035.35)
4. Medicare and other health insurance premiums, deductibles, coinsurance costs when not paid for by the Department or any other third party;
5. costs for medical treatment approved by a physician which are incurred subsequent to the effective date of eligibility and which are not covered by Medicaid;
6. expenses for services provided by a licensed medical provider in the six month period immediately preceding the first month of eligibility providing the following conditions are met:
 - a. the expenses were not for LTCF services, services provided by a medical institution equivalent to those provided in a long term care facility, or home and community-based services, when any of these services were incurred during a penalty period resulting from an improper transfer of assets; and
 - b. the recipient is currently liable for the expenses; and
 - c. the services are not covered by Medicaid in a prior period of eligibility.

4. UPM § 5035.30(A) provides for the use of Community Spouse Allowance (CSA)

1. 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 this allowance available to the community spouse (CS) or for the sole benefit of the CS.

The Department correctly determined that [REDACTED] 2019, is the month in which the 30th day of continuous LTCF care for the Appellant occurred and that he has a spouse living in the community who is eligible for a CSA as a deduction from the Appellant's total gross monthly income which is to be applied to the monthly cost of care.

5. UPM § 5035.30(B) provides for the calculation of 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.

The Department correctly determined that the community spouse's gross monthly income is \$2,578.09 (\$977.50 SSA + \$1,600.59 Gross Earnings).

The Department correctly determined that the community spouse's total monthly shelter costs are equal to \$1,500.54 (property taxes of \$417.00 property taxes + \$52.54 homeowner's insurance +\$295.00 Condo fees)

The Department correctly determined that the SUA is \$736.00 per month.

The Department correctly determined that the community spouse's excess shelter cost is equal to \$883.29 (\$1,500.54 total monthly shelter costs- \$617.25 30% of 150 percent of the monthly poverty level for two persons).

The Department correctly determined that the MMNA for the community spouse is \$2,940.79 (\$883.29 excess shelter costs + \$2,057.50 150% of poverty level for two persons).

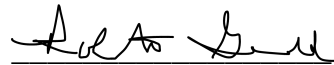
The Department correctly determined that car insurance and credit card debt are not allowable expenses in the calculation of the CSA amount.

The Department correctly determined that the monthly CSA is \$362.70 (\$2,940.79 MMNA - \$2,578.09 gross monthly income).

Effective [REDACTED] 2019, the Department correctly determined that the monthly amount being diverted to the Appellant's community spouse is \$362.70.

DECISION

The community spouse's appeal is DENIED.



Roberta Gould
Hearing Officer

Pc: Rachel Anersons, Social Services Operations Manager, DSS New Haven
Cheryl Stuart, Social Services Operations Manager, DSS New Haven
Lisa Wells, Social Services Operations Manager, DSS New Haven
Shayla Streater, Eligibility Services Worker, DSS New Haven
[REDACTED], Community Spouse

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.