

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

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

Client ID # ██████████  
Request #148123

NOTICE OF DECISION

PARTY

██████████  
██████████  
██████████

PROCEDURAL BACKGROUND

On ██████████ 2019, the Department of Social Services (the "Department") sent ██████████ ("Appellant") a Notice of Action ("NOA") stating the amount she must pay towards the cost of her care effective ██████████ 2019.

On ██████████ 2019, the Appellant requested an administrative hearing to contest the determination of the amount of applied income that she has to pay towards her care for the month of ██████████ 2019.

On ██████████, 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings, ("OLCRAH") sent a Notice of Administrative Hearing scheduling a hearing for ██████████, 2019.

On ██████████, 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings, ("OLCRAH") sent a Notice of Administrative Hearing rescheduling a 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 via telephone conference. The following individuals were present at the hearing:

██████████, Appellant's Conservator  
Stacey Carrier, Department's Representative  
Miklos Mencseli, Hearing Officer

The Appellant was not present.

The hearing record closed on [REDACTED], 2019.

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether the Department correctly determined the amount of the Appellant's monthly applied income for [REDACTED] 2019.

### **FINDINGS OF FACT**

1. On [REDACTED], 2019, the Department received a W-1E application for Medicaid long term support and services, W01 community based home care services. (Summary, Exhibit 8: Department's Case Notes, Department's Testimony)
2. On [REDACTED], 2019, Ascend the Department's medical reviewer approved the Appellant for Long Term level of care. (Summary, Exhibit 1: Ascend level of care approval, Exhibit 8, Department's Testimony)
3. On [REDACTED], 2019, the Appellant was admitted to [REDACTED] skilled nursing facility with Long Term care approval date of [REDACTED] 2019. (Summary, Exhibit 1, Exhibit 8)
4. On [REDACTED], 2019, the application dated [REDACTED], 2019 was denied for failure to provide requested verifications. (Summary, Exhibit 8)
5. On [REDACTED], 2019, the Appellant submitted a new application for Long Term Care ("LTC") Medicaid Assistance. (Summary, Exhibit 8)
6. The [REDACTED]-19 application withdrawn with the Department rescreening the application back to [REDACTED] 2019 as the Appellant income/asset eligible. (Exhibit 8)
7. The Department granted ("LTC") Medicaid Assistance effective for [REDACTED], 2019, the date the facility ([REDACTED]) requested Medicaid pick-up. (Summary, Exhibit 8, Department's Testimony)
8. The Department calculated the Appellant's applied income as \$1,289.46 (\$1,349.46 gross Pension - \$60.00 Personal Needs Allowance = \$1,289.46) effective for [REDACTED] 2019. (Exhibit 2: ImpACT LTSS Patient Liability printout, Exhibit 4: NOA dated [REDACTED]-19, Exhibit 5: Notice of Approval dated [REDACTED]-19, Exhibit 6: Notice of Approval dated [REDACTED]-19)
9. The Appellant is seeking an additional deduction of a rental diversion for [REDACTED] 2019 in calculating the applied income amount. (Conservator's Testimony)

10. The Department has no record of the Appellant leaving the facility since her admittance to return to the community. (Department's Testimony)
11. The Appellant had a rental amount of \$344.00 for [REDACTED] 2019. (Appellant Exhibit 4: Tenant Billing Statement Housing Authority of the City of [REDACTED])
12. The Appellant is required to give a 30-day notice to vacate to the Housing Authority of the City of [REDACTED] per her Residential Lease agreement signed and dated by the Appellant. (Appellant Exhibit 1: letter dated [REDACTED]-19 to the OLCRAH, Appellant Exhibit 2: Residential Lease agreement)
13. The Appellant's Conservator notified the Housing Authority of the City of [REDACTED] in writing that the Appellant will vacate her apartment no later than [REDACTED], 2019. (Appellant's Exhibit 4: letter dated [REDACTED], 2019 to the Housing Authority of [REDACTED])
14. "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], 2019. Therefore, this decision is due not later than [REDACTED], 2020."

However, the hearing, which was originally scheduled for [REDACTED], 2019, was rescheduled for [REDACTED] 2019, at the request of the Appellant, which caused a 11-day delay. Because this 11-day delay resulted from the Appellant's request, this decision is not due until [REDACTED] 2020, and is therefore timely.

### CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes ("CGS") authorizes the Commissioner of the Department of Social Services to administer the Medicaid program.

"The department's uniform policy manual is the equivalent of a state regulation and, as such, carries the force of law." *Bucchere v. Rowe*, 43 Conn. Supp. 175, 178 (1994) (citing Conn. Gen. Stat. § 17b-10; *Richard v. Commissioner of Maintenance*, 214 Conn. 601, 573 A.2d (1990)).

2. Uniform Policy Manual ("UPM") Section 0500 provides the following definitions:

**Deductions** are those amounts which are subtracted as adjustments to counted income and which represent expenses paid by the assistance unit.

**Disregards** are those amounts which are subtracted as standard adjustments to countable income and which do not represent expenses paid by the assistance unit.

3. UPM Section 5005.C provides that the Department computes applied income by subtracting certain disregards and deductions, as described in this section, from counted income.
4. UPM Section 5005.D provides that the Department uses the assistance unit's applied income to determine income eligibility and to calculate the amount of benefits.
5. UPM Section 5035.20.B provides that the following monthly deductions are allowed from the income of assistance units in LTCF's:
  1. for veterans whose VA pension has been reduced to \$90.00 pursuant to P.L. 101-508, and for spouses of deceased veterans whose pension has been similarly reduced pursuant to P.L. 101-508, as amended by Section 601 (d) of P.L. 102-568, a personal needs allowance equal to the amount of their VA pension and the personal needs allowance described in 2. below;
  2. a personal needs allowance of \$50.00 for all other assistance units, 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;
  3. an amount of income diverted to meet the needs of a family member who is in a community home to the extent of increasing his or her income to the MNIL which corresponds to the size of the family;
  4. Medicare and other health insurance premiums, deductibles, and coinsurance costs when not paid for by Medicaid 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.

**7. the cost of maintaining a home in the community for the assistance unit, subject to the following conditions:**

- a. **the amount is not deducted for more than six months; and**
- b. **the likelihood of the institutionalized individual's returning to the community within six months is certified by a physician; and**
- c. **the amount deducted is the lower of either:**
  - (1) the amount the unit member was obligated to pay each month in his or her former community arrangement; or**
  - (2) \$650 per month if the arrangement was Level 1 Housing; or**
  - (3) \$400 per month if the arrangement was Level 2 Housing; and**
- d. the amount deducted includes the following:
  - (1) heat
  - (2) hot water
  - (3) electricity
  - (4) cooking fuel
  - (5) water
  - (6) laundry
  - (7) property taxes
  - (8) interest on the mortgage
  - (9) fire insurance premiums
  - (10) amortization

6. Conn. Gen. Stat. § 17b-272. **(Formerly Sec. 17-134m). Personal fund allowance.** 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.
7. The Department correctly determined the Appellant was not eligible for the deduction of the cost of maintaining a home in the community as she as admitted to [REDACTED] skilled nursing facility with Long Term care approval date of [REDACTED], 2019
8. The Department correctly determined the Appellant is not eligible for a rental deduction for [REDACTED] 2019.
9. The Department correctly calculated the Appellant's applied income amount of \$1,289.46 (\$1,349.46 gross Pension - \$60.00 Personal Needs Allowance = \$1,289.46) for [REDACTED] 2019.

### DECISION

The Appellant's appeal is denied

  
Miklos Mencseli  
Hearing Officer

C: Lisa Wells, Operations Manager, New Haven #20

### **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.

### **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.