

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

██████████ 2022
SIGNATURE CONFIRMATION

CASE # ██████████
CLIENT ID # ██████████
REQUEST # 1 ██████████

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████, 2022, the Department of Social Services (the “Department”) sent ██████████ (“Appellant”), a Notice of Action (“NOA”) indicating the amount of her income that she must contribute to the cost of her long-term care would be increasing.

On ██████████, 2022, ██████████ (Appellant’s “Power of Attorney”) requested an administrative hearing to contest the Department’s calculation of the Appellant’s applied income.

On ██████████ 2022, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the hearing for ██████████ 2022.

On ██████████ 2022, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-189 inclusive of the Connecticut General Statutes, OLCRAH held an in-person administrative hearing via the Middletown regional office.

The following individuals participated in the hearing on [REDACTED] 2022:

[REDACTED], Appellant's Power of Attorney

[REDACTED] Barbara's spouse

Christine Moffitt, Department's Long Term Support Services Representative

Joseph Alexander, Administrative Hearing Officer

The Appellant did not participate in the hearing as she resides in a long-term care facility.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly calculated the Appellant's applied income that is payable to the long-term care facility.

FINDINGS OF FACT

1. The Appellant is a recipient of Medicaid and a resident of a nursing facility. (Hearing Record)
2. As of [REDACTED] 2022, the Appellant's gross monthly income consists of a \$2,784.00 Pension from the [REDACTED] (Dept. Ex. 2: Notice of Annuity Adjustment)
3. As of [REDACTED] 2022, the Appellant's monthly medical insurance premium was \$276.19 (Dept. Ex. 4: Medical Expenses-Details screenshot)
4. On [REDACTED], 2022, the Department sent a NOA to the Appellant notifying her that the patient liability amount (applied income) was determined to be \$2,432.81. (Dept. Ex. 6: NOA)
5. The issuance of this decision is timely under the Connecticut General Statutes § 17b-61(a), which requires that a decision be issued within [REDACTED] days of the request for an administrative hearing. The hearing was requested on [REDACTED] 2022, making this decision is due not later than [REDACTED] 2022.

CONCLUSIONS OF LAW

1. Connecticut General Statutes Section 17b-2 (6) provides that the Department of Social Services is designated as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Connecticut General Statutes § 17b-261(r) provides for the determination of applied income. (a) For purposes of this section, "applied income" means the income of a recipient of medical assistance, pursuant to section 17b-261, that is required, after the exhaustion of all appeals and in accordance with state and federal law, to be paid to a nursing home facility for the cost of care and services.
3. "The Department's uniform policy manual is the equivalent of a state regulation and, as such, carries the force of law." *Bucchere vs. Rowe*, 43 Conn. Supp. 175,178 (1994) (citing Conn. Gen. Stat § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601,573 A.2d 712 (1990)).
4. Uniform Policy Manual ("UPM") § 5045.20 provides that assistance units who are residents of long-term care facilities ("LTCF") or receiving community-based services ("CBS") 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.
5. UPM § 5045.20(B)(1)(a) provides that the amount of income to be contributed in LTC cases at the initial calculation for each month in the six month period for which the contribution is projected, monthly gross income is established as follows: total gross monthly income which was paid or payable to the applicant or recipient, in the six months prior to the period for which the contribution is projected, is divided by six.

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.

The Department correctly determined that the Appellant's gross monthly Income totals \$2,784.00.

6. UPM § 5035.25 (B)(1) provides a monthly deduction for LTFC units of a personal needs allowance ("PNA") 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.

The Department correctly allowed a PNA totaling \$75.00 (figure effective 10/1/21).

7. UPM § 5035.25(B)(4) provides that Medicare and other health insurance premiums, deductibles, and coinsurance costs are allowable deductions when not paid for the Department or any other third party.

The Department correctly applied a health care premium deduction totaling \$276.19

8. UPM § 5045.25 provides for calculating applied income for Long-Term Care Facility (“LTCF”) units without community spouses as follows:

General Principles for Calculating Applied Income

1. Determine amount of income to be considered from fixed income sources.
2. Determine amount of income to be considered from variable sources. (N/A)
3. Add the figures from steps 1 and 2, above.
4. Deduct a personal needs allowance of \$15.00 per month from the amount derived in step 3 for veterans whose pension is reduced to \$90.00 pursuant to P.L. 101-508. (N/A)
5. Deduct a personal needs allowance of \$15.00 per month from the amount derived in step 3 for spouses of deceased veterans whose pension is reduced to \$90.00 pursuant to P.L. 101-508 as amended by Section 601 of P.L. 102-568. (N/A)
6. To determine the amount of personal needs allowance to deduct for all other clients, go to step 7.
7. Deduct a personal needs allowance of \$60.00 (currently \$75) per month from the amount derived in step 3 for all other clients.
8. Deduct an amount diverted to meet the needs of eligible family members who are in the home to the extent of increasing their income to the MNIL which corresponds to the number of members. (N/A)
9. Deduct Medicare and other health insurance premiums
10. Deduct 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. (N/A)
11. Deduct expenses for services provided by a licensed medical provider in the month period immediately preceding the first month of eligibility. (N/A)
12. Deduct the cost of maintaining a home in the community, subject to the following conditions: (N/A)
 - a. the amount is not deducted for more than six months;
 - b. the likelihood of the institutionalized individual’s returning to the community within six months is certified by a physician
13. Use the resulting figure from the calculations above as the amount to be contributed to the cost of care.

Fixed Income (Pension)	\$2,784.00
Variable Source Income (N/A)	+\$0.00
Total Income	\$2,784.00
Less PNA	-\$75.00
Post PNA Deduction Income	\$2,709.00
Less Medicare Premium	-\$0.00
Less Health Care Premium Deduction	-\$276.19
Post Health Care Premium Deduction	\$2,432.81
Less Community Home Maintenance	-\$0.00
Less Community Spousal Allowance	-\$0.00
Less Community Family Allowance	-\$0.00
Less Uncovered Medical Expenses	-\$0.00
LTSS Patient Liability Amount	\$2,432.81

The Department correctly calculated the LTSS patient liability amount effective [REDACTED] 2022.

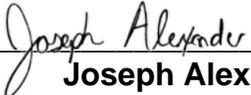
DISCUSSION

A Medicaid recipient who is residing in a long-term care facility must contribute to the cost of his or her care which is referred to as applied income. The regulations allow for deductions based on specific conditions. The Department correctly calculated the Applicant's gross income source and deducted the \$75.00 personal needs allowance. In addition, the Department applied the appropriate health care premium deduction.

The Department correctly calculated the Appellant's LTSS patient liability amount. The Power of Attorney's dispute is not the calculation of the patient liability amount, rather that the Appellant's net income (gross income-deductions) is not enough to cover the liability amount.

DECISION

The Appellant's appeal is **DENIED**



Joseph Alexander
Administrative Hearing Officer

CC. Brian Sexton, Operations Manager, DSS, Middletown Regional Office
Christine Moffitt, Long Term Support Services Representative, DSS, Middletown
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 §4-1181a (a) of the Connecticut General Statutes.

Reconsideration requests should include specific grounds for the request: for example, indicate what error of fact or law, 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 with 45 days of the mailing of this decision, or 45 days after the agency denies 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, 165 Capitol Avenue, Hartford, CT 06106 or the Commissioner of the Department of Social Services, 55 Farmington Avenue, Hartford, CT 06105-3725. 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 her 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.