

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

██████████ 2016  
Signature Confirmation

Client ID # ██████████  
Request # 736206

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2015, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") advising her that her Medicare Savings Program ("MSP") Medical Assistance would be discontinued effective ██████████ 2015 because her income was too high to qualify for any of the MSPs, including the Additional Low Income Beneficiary Program.

On ██████████ 2015, the Appellant requested an administrative hearing to contest the Department's action.

On ██████████ 2015, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice scheduling the administrative hearing for ██████████ 2015.

On ██████████ 2015, at the Appellant's request, OLCRAH rescheduled the hearing for ██████████ 2015.

On ██████████ 2015, 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

████████████████████ attorney representing the Appellant  
██████████ also from ██████████  
Michael Briggs, Department's Representative  
Maren Walsh, Department's Representative  
Tierra McClain, from the Department, observing  
James Hinckley, Hearing Officer

### **STATEMENT OF THE ISSUE**

The issue is whether the Department's discontinuance of MSP benefits for the Appellant was correct.

### **FINDINGS OF FACT**

1. The Appellant receives \$700.00 per month from the Social Security Retirement, Survivors, and Disability Insurance program ("RSDI"), and qualifies for Medicare. (Ex. C: SVES Title II Information).
2. The Appellant has a spouse (the "Spouse") who has been institutionalized since ██████████ 2015, and who is currently receiving Medicaid for payment of his long term cost of care. (Record)
3. Prior to the Spouse's institutionalization, the Appellant and her spouse resided together in the community, and each qualified for benefits from the Qualified Medicare Beneficiaries ("QMB") program, one of the MSPs. (Record)
4. Following the Department's determination of the Spouse's eligibility for long term care Medicaid, the Department determined that \$1,810.90 of his income would be excluded as income to be applied toward his cost of care and, instead, would be paid monthly to the Appellant as a community spouse income allowance. (Record)
5. On ██████████ 2015, the Department reassessed the Appellant's eligibility for MSP coverage, based on the new status of comprising a household of one person since her Spouse's institutionalization, and based on her having a new source of income, the \$1,810.90 per month community spouse allowance ("CSA"). (Record)
6. On ██████████ 2015, the Department sent the Appellant a NOA advising her that her MSP benefits would be discontinued effective ██████████ because her income of \$2,510.90 (\$700.00 from her own RSDI benefit, plus \$1,810.90 from the CSA) exceeded the limit for one person for coverage from the Additional Low Income Medicare Beneficiary program. (Ex. H: NOA dated ██████████ 2015)

### **CONCLUSIONS OF LAW**

1. Section 17b-2 of the Connecticut General Statutes ("C.G.S.") authorizes the Commissioner to administer the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Uniform Policy Manual § 2000.01 provides the following definition of Household: Household is used to designate all of the individuals who are living together in one dwelling unit.

**The Department correctly determined that since her Spouse's institutionalization, the Appellant has comprised a household of one person.**

3. 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 it is inaccessible; or
  3. deemed by the Department to benefit the assistance unit.

**The Department correctly determined that the \$1,810.90 CSA is income for the Appellant. The CSA is real income that is set aside from the Appellant's Spouse's income as an allowance for the Appellant's benefit, and is actually paid to her monthly. The CSA is not specifically excluded from consideration as income for the program the Appellant is seeking benefits from.**

4. UPM § 2540.97(A) provides that the Additional Low Income Medicare Beneficiaries ("ALMB") coverage group includes individuals who would be Qualified Medicare Beneficiaries described in 2540.94, except that:
  1. their applied income is equal to or exceeds 120 percent of the Federal Poverty Level, but is less than 135 percent of the Federal Poverty Level; or
  2. their applied income is less than 135 percent of the Federal Poverty Level, and they have assets valued at more than twice the SSI limit (Cross Reference: 4005.10).
5. Connecticut General Statutes (C.G.S.) §17b-256(f) provides in relevant part that beginning March 1, 2012, and annually thereafter, the Commissioner of Social Services shall increase income disregards used to determine eligibility by the Department of Social Services for the federal Specified Low-Income Medicare Beneficiary, the Qualified Medicare Beneficiary, and the Qualifying Individual Programs, administered in accordance with the provisions of 42 USC 1396d(p), by an

amount that equalizes the income levels and deductions used to determine eligibility for said programs with income levels and deductions used to determine eligibility for the ConnPACE program under subsection (a) of section 17b-492.

6. Subsection (a) of Section 17b-492 C.G.S. provides in relevant part that eligibility for participation in the program shall be limited to any resident (1) who is sixty-five years of age or older or who is disabled, (2) whose current annual income at the time of application or redetermination, if unmarried, is less than twenty thousand eight hundred dollars or whose annual income, if married, when combined with that of the resident's spouse is less than twenty-eight thousand one hundred dollars; and that on January 1, 2012, and annually thereafter, the commissioner shall increase the income limits established under this subsection over those of the previous fiscal year to reflect the annual inflation adjustment in Social Security income, if any, and that each such adjustment shall be determined to the nearest one hundred dollars.

The ALMB program, which is the Department's name for the Qualifying Individual Program, has the highest income limit of the three MSP programs.

As of [REDACTED] 2015, the MSP monthly income limit for ALMB for a single individual was \$2,413.26.

**The Department correctly determined that the Appellant's income of \$2,510.90 exceeded the \$2,413.26 ALMB limit for a household of one person and correctly discontinued the Appellant's MSP benefits effective [REDACTED] 2015.**

### DECISION

The Appellant's appeal is DENIED.

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James Hinckley  
Hearing Officer

cc: [REDACTED]  
Poonam Sharma, SSOM, Bridgeport  
Fred Presnick, SSOM, Bridgeport  
Yecenia Acosta, SSPM, Bridgeport  
Cheryl Stuart, SSPM, 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 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 06105-3725.

### **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.