

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

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

CL ID # ██████████
Hearing Request # 756936

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2016, the Department of Social Services (the "Department") sent a notice to ██████████ (the "Appellant") advising that her Medicare Savings Program Additional Low Income benefits would be discontinued effective ██████████ 2016 because her household's income exceeded the limit.

On ██████████ 2016, the Appellant requested an administrative hearing because she disagreed with the Department's decision to discontinue her benefits.

On, ██████████ 2016, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice scheduling the administrative hearing for ██████████ 2016.

On, ██████████ 2016, OLCRAH rescheduled the administrative hearing at the Appellant's request to ██████████ 2016.

On ██████████ 2016, 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:

██████████ the Appellant,
██████████ the Appellant's sister
Joshua Couillard, Hearing Liaison, DSS, Middletown Regional Office
Maureen Foley-Roy, Hearing Officer

The hearing record was held open for the submission of additional evidence. On [REDACTED] 2016, the record closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to discontinue the Appellant's Additional Low Income Beneficiary benefits through the Medicare Savings Program effective [REDACTED] 2016 was correct.

FINDINGS OF FACT

1. On [REDACTED] 2016 and [REDACTED] 2016, the Department issued notices that the Appellant's Medicare Savings Program ("MSP") benefits would be discontinued because her income was more than the program allowed. (Exhibits 2 and 4: Discontinuance Notices and Exhibit 11: Case Narrative)
2. On [REDACTED] 2016 and [REDACTED] 2016, the Department reinstated the Appellant's MSP benefits. (Exhibits 3 and 5: Reinstatement Notices and Exhibit 11)
3. The Department receives information regarding Social Security income and benefits directly from the Social Security Administration through a computer matching program.(Department representative's testimony)
4. The Appellant receives Social Security benefits through her deceased husband's claim number. (Appellant's testimony)
5. The Appellant currently receives a gross Social Security benefit of \$2018.00 per month. The Appellant's net benefit is \$1715.30 per month.(Exhibit 10: SVES printout)
6. The Appellant also receives a private retirement benefit of \$713.72 per month. (Exhibit 7: UINC screens and Appellant's testimony)
7. On [REDACTED] 2016, the Department issued a notice advising the Appellant that her MSP benefits would be discontinued effective [REDACTED] 2016 because her income exceeded the program's limit. (Exhibit 6: Notice of Discontinuance dated [REDACTED] 2016)

CONCLUSIONS OF LAW

1. Section 17b-2 Section 17b-2 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the Medicaid program pursuant to Title XIX of the Social Security Act.

2. Federal Statutes provide for the definition of a qualified Medicare beneficiary as an individual: Who is entitled to hospital insurance benefits under part A of subchapter XVIII of this chapter (including an individual entitled to such benefits pursuant to an enrollment under section 1395I-2 of this title, but not including an individual entitled to such benefits only pursuant to an enrollment under section 1351I-2a of this title.) [42 United States Code (U.S.C.) § 1396d(p)(1)(A)] whose income (as determined under section 1382(a) of this title for purposes of the supplemental security income program, except as provided in paragraph 2(D) does not exceed an income level established by the state consistent with paragraph 2. [42 U.S.C. § 1396d(p)(1)(B)]
3. Section 17b-256(f) of the Connecticut General Statutes provides for the Medicare Saving Program Regulations and states in part that beginning in March of 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 Qualified Medicare Beneficiary, the Specified Low-Income Medicare Beneficiary and the Qualifying Individual programs, administered in accordance with the provisions of 42 USC 1396d(p), by such amounts that shall result in persons with income that is (1) less than two hundred eleven per cent of the federal poverty level qualifying for the Qualified Medicare Beneficiary program, (2) at or above two hundred eleven per cent of the federal poverty level but less than two hundred thirty-one per cent of the federal poverty level qualifying for the Specified Low-Income Medicare Beneficiary program, and (3) at or above two hundred thirty-one per cent of the federal poverty level but less than two hundred forty-six per cent of the federal poverty level qualifying for the Qualifying Individual program. The commissioner shall not apply an asset test for eligibility under the Medicare Savings Program. The commissioner shall not consider as income Aid and Attendance pension benefits granted to a veteran, as defined in section 27-103, or the surviving spouse of such veteran. The Commissioner of Social Services, pursuant to section 17b-10, may implement policies and procedures to administer the provisions of this section while in the process of adopting such policies and procedures in regulation form, provided the commissioner prints notice of the intent to adopt the regulations in the Connecticut Law Journal not later than twenty days after the date of implementation. Such policies and procedures shall be valid until the time final regulations are adopted.
4. Uniform Policy Manual (“UPM”) § 2540.94(A)(1) provides for Qualified Medicare Beneficiaries (“QMB”) coverage group to include individuals who:
 - a. are entitled to hospital insurance benefits under part A of Title XVIII of the Social Security act; and
 - b. have income and assets equal to or less than the limits described in paragraph C and D.
5. UPM § 2540.97 A 1 provides for Additional Low Income Medicare Beneficiaries (“ALMB”) Under 135% and states that this group includes individuals who would be Qualified Medicare Beneficiaries described in 2540.94 except that their applied

income is equal to or exceeds 120 percent of the Federal Poverty Level but is less than 135% of the Federal Poverty Level.

6. Effective [REDACTED] 2016, the Department established the income limit under the MSP applicable to the ALMB program for a household of one person as \$2,435.40
7. The Department was correct when it determined that the Appellant's total income of \$2731.72 per month exceeds the allowable limit of \$2,435.40 per month for the ALMB program.
8. The Department was correct when it discontinued the Appellant's benefits under the ALMB program because her income exceeded the allowable limit.

DECISION

The Appellant's appeal is **DENIED**.

Maureen Foley-Roy
Maureen Foley-Roy
Hearing Officer

CC: E. Tyler Nardine, Social Service Operations Manager, Middletown
Joshua Couillard, Hearing Liaison, Middletown

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.