

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

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

CL ID # ██████████
Hearing # 779916

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2016, the Department of Social Services (the "Department") discontinued ██████████ Qualified Medicare Beneficiaries ("QMB") benefits effective ██████████ 2016, because her income exceeded the allowable limit.

On ██████████ 2016, ██████████ ("the Appellant") requested an administrative hearing because she contests the discontinuance of such benefits.

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

The Appellant was hospitalized on ██████████ 2016.

On ██████████ 2106, OLCRAH issued a notice rescheduling the Appellant's hearing for ██████████ 2016.

On ██████████ 2016, 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
Guerline Dominique, Department's Representative
Pamela J. Gonzalez, Hearing Officer

STATEMENT OF THE ISSUES

The issue is whether the Department correctly discontinued the Appellant's QMB benefits effective [REDACTED] 2016 due to income in excess of the program limit.

FINDINGS OF FACT

1. The Appellant was receiving QMB assistance under the Q01 coverage group. (Eligibility Management System MAFI screen prints – Department's exhibits B, C)
2. The Appellant receives Social Security disability income in the amount of \$2,046.00 per month. (Eligibility Management System UINC screen print – Department's exhibit B, Appellant's testimony)
3. The Appellant has no other income. (Appellant's testimony)
4. On [REDACTED] 2016, the Department processed the Appellant's redetermination of program eligibility and reflected additional income of \$460.00. (Department's representative's testimony)
5. On [REDACTED] 2016, the Department issued a notice of Discontinuance to the Appellant stating that her medical assistance would be discontinued effective [REDACTED] 2016 because her income exceeds the program income limit. (Notice dated [REDACTED] 2016 – Department's exhibit D)

CONCLUSIONS OF LAW

1. 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. 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. Effective March 1, 2016, the Department established the income limit under the Medicare Savings Program (“MSP”) applicable to the QMB program for a household of one person as \$2088.90 per month.
6. UPM § 2540.94 D 1 a provides, in part, that the Department uses AABD income criteria (Cross Reference 5000) to determine eligibility for the additional low income Medicare beneficiaries except that the annual cost of living percentage increase received by SSA and SSI recipients each January is disregarded when determining eligibility for the first three months of each calendar year.
7. UPM § 5050.13 (A)(1) provides that income from Social Security is treated as unearned income in all programs.
8. UPM § 1540.05(A) provides that a statement made by an applicant or a recipient is considered to by the Department to be verified when the available evidence indicates that it is more likely to be true than not.
9. UPM § 1540.05(C) provides that (1) the Department requires verification of information (a) when specifically required by federal or State law or regulations; and (b) when the Department considers it necessary to corroborate an assistance unit’s statements pertaining to an essential factor of eligibility. (2) The Department does not

require applicants or recipients to provide documentary evidence to verify the nonexistence of any factor, including the following: (a) lack of income, (b) lack of bank accounts or other assets, (c) absence of one parent from the home.

10. The Department did not seek verification of the Appellant's alleged additional income prior to reflecting it to her detriment.

11. The Department correctly determined that the Appellant's monthly Social Security income totals \$2,046.00.

12. The Department incorrectly determined that the Appellant's monthly income totaled \$2,506.00 (\$2,046.00 Social Security + \$460.00 rent from brother)

13. UPM § 5030.15(B)(1)(d) provides for a QMB disregard in the AABD program and states that the disregard is the amount of additional benefits received from Social Security each year which result from the annual Cost of Living Allowance (COLA).

14. UPM § 5030.15(B)(3) provides that the QMB disregard is used only in the months of January, February and March of each year.

15. The Department correctly determined that the Appellant does not qualify for an unearned income disregard in determining QMB income eligibility.

16. The Appellant's monthly applied income totals \$2,046.00.

17. UPM § 2540.94(D)(2) provides in part that for the QMB program, the income to be compared with the Federal Poverty Level is the applied income of MAABD individuals living in the community.

18. The Appellant's applied income is under the Qualified Medicare Beneficiary income limit of \$2,088.90.

19. The Appellant is eligible for the Qualified Medicare Beneficiary program.

20. The Department was incorrect when it discontinued the Appellant's Medicare Savings Program benefits.

DISCUSSION

The Appellant credibly testified that her only income source is Social Security. She explained that she and her brother had discussed an arrangement where he would stay with her and pay her for rent but this did not happen. Her brother had stayed with her off and on but did not pay her therefore; the Appellant changed her position with respect to allowing him to stay with her.

The Department's representative stated that because the Appellant's brother stated that he pays her \$460.00 for rent, that amount was reflected as income in the eligibility determination. The Department did not verify this income source and did not afford the Appellant a chance to refute the information that her brother provided.

I found the Appellant's testimony to be credible. Social Security income is her only income source and because it is within the program income limit, she continues to qualify for QMB coverage.


DECISION

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

ORDER

The Department shall void its [REDACTED] 2016 discontinuance of the Appellant's QMB – Q01 coverage and shall restore assistance back to that date.

Verification that the [REDACTED] 2016 discontinuance has been voided and benefits have been restored is due to OLCRAH by [REDACTED] 2016.


Pamela J. Gonzalez
Hearing Officer

Copy: Musa Mohamud, SSOM, DSS, Hartford RO #10
Judy Williams, SSOM, DSS, Hartford, RO #10
Tricia Morelli, SSPM, DSS, Hartford, RO #10
Guerline Dominique, ESW, DSS, Hartford, RO #10

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.

