

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATION AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CONNECTICUT 06105-3730

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

CL ID # ██████████
Request ID #788757

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2016, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") stating her premium amount due including current and past due amounts is \$693.52 under the Medicaid for Employed Disabled ("S05") program.

On ██████████ 2016, the Appellant requested an administrative hearing to contest the Department's action.

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

On ██████████ 2016, in accordance with Connecticut General Statutes § 17b-60, 17b-61 and § 4-176e to § 4-184, inclusive, OLCRAH held an administrative hearing. The following individuals were present at the hearing:

██████████, Appellant
██████████ Staff Attorney, Office of the Healthcare Advocate, Appellant's Representative
██████████ Office of the Healthcare Advocate, Appellant's Representative
Sulma Fuentes, Department's Interpreter
Michael Stanish, Department's Representative
Miklos Mencseli, Hearing Officer

The hearing officer held the record open for the submission of additional evidence to be provided by the Department and the Appellant. On [REDACTED] 2016, the hearing officer closed the record.

STATEMENT OF ISSUE

The issue to be decided is whether the Department correctly calculated the Appellant's premium amount due including current and past due amounts is correct for the Medicaid for Employed Disabled ("S05") program.

FINDING OF FACTS

1. The Appellant is a recipient of Medicaid benefits under the Employed Disabled ("S05") program. (Summary, Testimony)
2. On [REDACTED] 2016, the Department sent the Appellant a Notice of Current Premium Due in the amount of \$1.17 for [REDACTED] 2016 and an Overdue Premium Due in the amount of \$693.52. (Exhibit 2: NOA dated [REDACTED]-16)
3. On [REDACTED] 2016, the Department sent the Appellant a Notice of Premium Change in the amount of \$251.77 for [REDACTED] 2016. (Exhibit 1: NOA dated [REDACTED]-16)
4. On [REDACTED] 2016, the Appellant reported to the Department her marriage to [REDACTED] [REDACTED] was receiving Unemployment Compensation Benefits (UCB) as his source of income. (Summary, Exhibit 9: Department's UCB Inquiry printout)
5. The Appellant's premium amount was zero for [REDACTED] 2016, \$71.97 for [REDACTED] 2016 and \$70.17 for [REDACTED] 2016 through [REDACTED] 2016. See Table 2 below.
6. The Appellant's premium was based on an average of her gross monthly income and the Federal Poverty Limit (FPL) for a household of one. (Summary, Testimony)
7. The Department failed to add [REDACTED] and his gross income to the Appellant's household until [REDACTED] 2016. (Summary, Testimony)
8. The addition of [REDACTED] and his gross income to the Appellant's award back to [REDACTED] 2016 caused the change in the Appellant's premium amount and the premium overdue amount. See Table 1 below. (Summary, Testimony)
9. The addition of [REDACTED] also increased the FPL amount to a household of two. See Table 1 below. (Summary, Testimony)

Table 1	█ 16	█ 16	█ 16	█ 16	█ 16	█ 16	█ 16	█ 16	█ 16	█ 16
	\$1,873.71	\$2,681.71	\$2,681.71	\$2,681.71	\$2,681.71	\$2,681.71	\$2,681.71	\$2,681.71	\$2,681.71	\$2,681.71
	\$1,087.90	\$1,087.90	\$1,087.90	\$1,087.90	\$1,087.90	\$1,087.90	\$1,087.90	\$0.00	\$0.00	\$2,506.04
total	\$2,961.61	\$3,769.61	\$3,769.61	\$3,769.61	\$3,769.61	\$3,769.61	\$3,769.61	\$2,681.71	\$2,681.71	\$5,187.75
200% FPL	\$2,656.00	\$2,656.00	\$2,670.00	\$2,670.00	\$2,670.00	\$2,670.00	\$2,670.00	\$2,670.00	\$2,670.00	\$2,670.00
comparison	\$305.61	\$1,113.61	\$1,099.61	\$1,099.61	\$1,099.61	\$1,099.61	\$1,099.61	\$11.71	\$11.71	\$2,517.75
premium	\$30.56	\$111.36	\$109.96	\$109.96	\$109.96	\$109.96	\$109.96	\$1.17	\$1.17	\$251.77

Table 2	█ 16	█ 16	█ 16	█ 16	█ 16	█ 16	█ 16	█ 16	█ 16	█ 16
	\$1,873.71	\$2,681.71	\$2,681.71	\$2,681.71	\$2,681.71	\$2,681.71	\$2,681.71	\$2,681.71	\$2,681.71	\$2,681.71
total	\$1,873.71	\$2,681.71	\$2,681.71	\$2,681.71	\$2,681.71	\$2,681.71	\$2,681.71	\$2,681.71	\$2,681.71	\$2,681.71
200% FPL	\$1,962.00	\$1,962.00	\$1,980.00	\$1,980.00	\$1,980.00	\$1,980.00	\$1,980.00	\$1,980.00	\$1,980.00	\$1,980.00
comparison	\$0.00	\$719.71	\$701.71	\$701.71	\$701.71	\$701.71	\$701.71	\$701.71	\$701.71	\$701.71
premium	\$0.00	\$71.97	\$70.17	\$70.17	\$70.17	\$70.17	\$70.17	\$70.17	\$70.17	\$70.17

10. The Appellant questioned the Department's determination of the overdue premium amount and if she received credits for the payments made during the period. (Testimony)
11. The Department requested and received wage verification for the Appellant from her employer, the █. The employer verified wages received from █ 2016 through █ 2016. (Exhibit 8: W-35 Certificate For Disclosure of Gross Wages, Salary or Commission Paid with attachments)
12. The Appellant is paid weekly. (Exhibit 8)
13. █ received UCB income from █ 2016 through █ 2016. His gross weekly amount was \$253.00. (Exhibit 9)
14. █ was employed by █. The Department verified through the Work Number that he received weekly checks from █ 2016 through █ 2016. (Exhibit 6: The Work Number verification form)
15. █ began working for █ on █ 2016. The Department requested and received wage verification from the employer. The employer provided wage verification from █ 2016 through █ 2016. (Exhibit 7: W-35 Certificate For Disclosure of Gross Wages, Salary or Commission Paid with attachments)
16. The Department re-calculated the Appellant's eligibility based on the actual wages received in █ 2016 through █ 2016. The Department used an average to calculate █ 2016 wages and on-going. See Table 3 below.

17. The Department used an average for the Appellant from ██████ 2016 through ██████ 2016 to determine ██████ 2016 wages. The Department used an average for ██████ from ██████ 2016 through ██████ 2016 to determine his ██████ 2016 wages. See Table 3 below.

Table 3	█████ 16	█████ 16	█████ 16	█████ 16	█████ 16	█████ 16
█████-wage	\$2,731.43	\$3,425.26	\$2,807.67	\$2,627.06	\$3,922.70	\$2,501.63
█████-UCB	\$1,012.00	\$1,012.00	\$1,012.00	\$253.00	\$0.00	\$0.00
█████-wage	\$0.00	\$0.00	\$0.00	\$744.72	\$2,249.25	\$3,108.14
Total	\$3,743.43	\$4,437.26	\$3,819.67	\$3,624.78	\$6,171.95	\$5,609.77
200% FPL	\$2,656.00	\$2,656.00	\$2,670.00	\$2,670.00	\$2,670.00	\$2,670.00
Comparison	\$1,087.43	\$1,781.26	\$1,149.67	\$954.78	\$3,501.95	\$2,939.77
Premium	\$108.74	\$178.12	\$114.96	\$95.47	\$350.19	\$293.97

Table 3	█████ 16	█████ 16	█████ 16	█████ 16
█████-wage	\$3,150.01	\$3,293.30	\$2,897.44	\$3,039.61
█████-UCB	\$0.00	\$0.00	\$0.00	\$0.00
█████-wage	\$2,068.29	\$2,365.57	\$2,884.15	\$2,535.08
Total	\$5,218.30	\$5,658.87	\$5,781.59	\$5,574.69
200% FPL	\$2,670.00	\$2,670.00	\$2,670.00	\$2,670.00
Comparison	\$2,548.30	\$2,988.87	\$3,111.59	\$2,904.69
Premium	\$254.83	\$298.88	\$311.15	\$290.46

18. The Department determined that the Appellant made payments totaling \$809.69 in premiums from ██████ 2016 through ██████ 2016. Based on the updated wages the Department determined the correct premium amount total was \$2,589.57 from ██████ 2016 through ██████ 2016. The Appellant has a past due amount of \$1,779.88 (\$2,589.57 - \$809.69 equals \$1,779.88). (Exhibit 4: Summary of payments and premium amounts)
19. The Appellant believes her past due amount is \$1,237.65 as she paid \$251.77 with check ██████ in ██████ 2016. (\$1,779.88 - \$251.77 - \$290.46 premium for ██████ 2016 equals \$1,237.65). (Appellant's Exhibit 1page 6: check receipt)
20. The Appellant also questions the calculation of the \$290.46 on-going premium amount. (Appellant Exhibit 1)
21. The Department updated the Appellant's award based on the above wages and payments received for the period of ██████ 2014 through ██████ 2016. See Table 4 below. (Exhibit 10: Table from the Department's Eligibility Policy and Program Support Unit)
22. Based on Table 4 below the Department determined the current amount owed is \$1,552.01.

████ 2015	\$-00			\$-00	\$0.00
████ 2015	\$-00			\$-00	\$0.00
████ 2015	\$-00			\$-00	\$0.00
████ 2015	\$-00			\$-00	\$0.00
████ 2016	\$108.74			\$-00	\$(108.74)
████ 2016	\$178.12		████ 2016	\$71.97	\$(214.89)
████ 2016	\$114.96		████ 2016	\$70.17	\$(259.68)
████ 2016	\$95.47				\$(355.15)
████ 2016	\$350.19		████ 2016	\$70.17	\$(635.17)
	\$-00		████ 2016	\$70.17	\$(565.00)
████ 2016	\$293.97		████ 2016	\$70.17	\$(788.80)
████ 2016	\$254.83		████ 2016	\$70.17	\$(973.46)
████ 2016	\$298.88		████ 2016	\$70.17	\$(1,202.17)
████ 2016	\$311.15				\$(1,513.32)
████ 2016	\$290.46		████ 2016	\$251.77	\$(1,552.01)
Total	\$2,613.47			\$1,061.46	

CURR MONTH PREMIUM DUE: 290.46
 TOTAL PREMIUMS PAID: 1061.46
 TOTAL OVERDUE/OVERPAID: 2613.47
 DELINQUENT PREMIUM AMT: 1552.01

CONCLUSION OF LAW

1. Section 17b-2 of the Connecticut General Statutes (“Conn. Gen. Stats”) authorizes the Commissioner of the Department of Social Services to administer the Medicaid program.
2. Conn. Gen. Stats § 17b-597(a) authorizes the Department of Social Services to establish and implement a working persons with disabilities program to provide medical assistance as authorized under 42 USC 1396a(a)(10)(A)(ii), as amended from time to time, to persons who are disabled and regularly employed
3. The Commissioner of Social Services shall implement the policies and procedures necessary to carry out the provisions of this section while in the process of adopting such policies and procedures in regulation form, provided notice of intent to adopt the regulations is published in the Connecticut Law Journal within twenty days after implementation. Conn. Gen. Stats § 17b-597(c)
4. Uniform Policy Manual (UPM) Section 2540.85 provides that there are two distinct groups of employed individuals between the ages of 18 and 64 inclusive who have a medically certified disability or blindness and who qualify for Medicaid as working individuals with disabilities. These groups are the Basic Insurance Group and the Medically Improved Group. There is a third group of employed individuals consisting of persons at least 18 years of age who have a medically certified disability or blindness who also qualify for Medicaid as working individuals with disabilities. This is the Balanced Budget Act Group.
5. UPM § 2540.85(A) provides for the Basic Insurance Group. An individual in this group, which is authorized under the Ticket to Work and Work Incentives Improvement Act of 1999 (TWWIIA), is subject to the conditions described below.
 1. An individual in this group must be engaged in a substantial and reasonable work effort to meet the employment criterion.
 - a. Such effort consists of an activity for which the individual receives cash remuneration and receives pay stubs from his or her employer.
6. The Department correctly determined the Appellant is eligible for the Basic Insurance Group as she is employed and receives pay stubs from her employer.
7. UPM § 2540.85 A(2)(a) provides the individual meets the income eligibility test under this group by passing one of the following income tests: having a gross monthly income equal to or less than \$6250.
8. The Department correctly determined the Appellant’s household gross monthly income is below \$6250.00.

9. UPM § 2540.85 A(4) provides the individual may be required to pay the Department a monthly premium for medical coverage if the gross monthly counted income of the individual and spouse (minus Impairment-Related Work Expenses described at UPM 5035.10 C) exceeds 200% of the federal poverty level (FPL) for the appropriate family size, including dependent children living in the home.
 - a. The amount of the premium is equal to 10% of this excess, minus the monthly amount of any payments for health insurance made by the individual or spouse for any family member.
10. Effective March 1, 2015 200% of the FPL for a household of two was \$2,656.00.
11. Effective March 1, 2016 200% of the FPL for a household of two was \$2,670.00.
12. The Department correctly determined the Appellant's and her spouse's income exceed 200% of the FPL for a household size of two.
13. UPM § 5025.05(A) provides for converting income to monthly amounts and states:
 1. Past Months
The Department uses the exact amount of the unit's available income received or deemed in the month.
 2. Current and Future Months
The Department uses the best estimate of the amount of income the unit will have, if the exact amount is unknown. This estimate is based upon:
 - a. information about what the unit received in similar past periods of time; and
 - b. a reasonable anticipation of what circumstances will exist to affect the receipt of income in future months.
14. The Department correctly determined the Appellant and her spouse's income for the period of [REDACTED] 2016 through [REDACTED] 2016 based on the exact amount of wages and correctly estimated the on-going income based on averaging the wages. Table 3
15. The Department correctly determined the Appellant's past due amount premium and her on-going based the payments received and the corrected premium amount based her and her spouse's wages. Table 4

DISCUSSION

The Department is correctly determined the Appellant has an Overdue Premium amount due. The Department correctly determined the Appellant's on-going premium amount.

DECISION

The Appellant's appeal is Denied.

ORDER

1. The Department shall issue the Appellant an updated notice with the corrected overdue amount and current premium amount.
2. No later than [REDACTED] 2016, the Department will provide to the undersigned proof of compliance with this order.



**Miklos Mencseli
Hearing Officer**

C: Cheryl Parsons, Operations Manager, DSS R.O. # 40 Norwich

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.