

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 #797760

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

REASON FOR HEARING

On ██████████ 2016, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA) discontinuing medical benefits under the Medicare Savings Program ("MSP") program.

On ██████████ 2016, the Appellant requested an administrative hearing to contest the Department's decision to discontinue such benefits.

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

On ██████████ 2016, in accordance with sections 17b-60, 17-61 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
Rosalie Bertolini, Department's representative
Miklos Mencseli, Hearing Officer

STATEMENT OF ISSUE

The issue to be decided is whether the Department's decision to discontinue benefits under the Medicare Savings Program was correct.

FINDING OF FACTS

1. The Appellant submitted his W-1QMBR redetermination form to the Department. The form is signed and dated by the Appellant and his spouse. The Department completed the review on [REDACTED] 2016. (Summary, Exhibit 5: W-1QMBR signed and dated [REDACTED]-16)
2. The Appellant is a household of two. (Testimony)
3. The Appellant is married and lives with his spouse. (Testimony)
4. The Appellant reported monthly income of \$694.00 he receives from the Social Security Administration ("SSA"). (Summary, Testimony)
5. The Appellant reported yearly income of \$400.00 he receives from his Individual Retirement Account ("IRA"). (Summary, Testimony)
6. The Department converted the yearly amount into a monthly amount of \$33.33 (\$400.00 / 12 months equals \$33.33). (Summary)
7. The Appellant's spouse reported monthly income of \$2,052.80 she receives from the Social Security Administration ("SSA"). (Summary)
8. The Appellant's spouse reported monthly income of \$1,000.00 she receives from a pension. (Summary, Exhibit 5)
9. The Appellant is responsible to pay for a phone bill, medical bills and gas for his car. (Testimony)
10. The Department determined the total household income is \$3,780.13 (\$694.00 + \$33.33 + \$2,052.80 + \$1,000.00 equals \$3,780.13). (Summary, Exhibit 2: Department's MA Financial Eligibility screen printout)
11. The Department determined the Appellant's household income for two exceeds the Additional Low Income Medicare Beneficiaries ("ALMB") income limits. (Summary)
12. On [REDACTED] 2016, the Department sent a NOA to the Appellant advising him that his Medical Assistance will be discontinued effective [REDACTED] 2016 because his income is more than the limit for the program. (Exhibit 4: NOA dated [REDACTED]-16)

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.
2. Uniformed Policy Manual (UPM) § 2540.97(A) provides that the 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).
3. UPM 2540.97(D) provides that the Department uses AABD income criteria (Cross Reference 5000), including deeming methodology, to determine eligibility for this coverage group except for the following:
 - a. the annual cost of living percentage increase received by SSA and SSI recipients each January is disregarded when determining eligibility in the first three months of each calendar year;
 - b. for eligibility to exist the income must be less than a percentage of the Federal Poverty Level for the appropriate needs group size, as described in paragraph A.
4. UPM 5050.13 (A)(1) provides for treatment of income for Social Security and Veteran's benefits. Income from these sources is treated as unearned income in all programs.
5. UPM 5050.09(A) provides for treatment of income from Annuity, Pension and Trust Programs. Payments received by the assistance unit from annuity plans, pension and trusts are considered unearned income.
6. UPM 5050.09(B) provides when the payments are received less frequently than monthly, each payment is averaged forward over the number of months for which it was intended to obtain an amount of gross monthly income. (Cross Reference: 5050.53 - Intermittent Income)
7. The Department correctly determined the Appellant's monthly income from his IRA is \$33.33. (\$400.00 yearly amount divided by 12 months equals \$33.33)

8. Public Act 09-5, "An Act Concerning A Deficit Mitigation Plan For The Fiscal Year Ending June 30, 2010", amended Section 17b-492 of the Connecticut General Statutes allowing for increased eligibility requirements for the federal Medicare Savings Program under the ConnPACE Plus program. Section 17b-492(a) provides 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, (3) who is not insured under a policy which provides full or partial coverage for prescription drugs once a deductible is met, except for a Medicare prescription drug card endorsed by the Secretary of Health and Human Services in accordance with Public Law 108-173, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, or coverage under Medicare Part D pursuant to said act, and (4) on and after September 15, 1991, who pays an annual forty-five-dollar registration fee to the Department of Social Services.
9. Section 17b-492(a) also provides 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.
10. UPM P-4530.27(4) provides that in determining eligibility for Additional Low Income Medicare Beneficiaries (ALMB-Q04) the Department compares the applied income and the gross unearned income of the needs group to 246% of the Federal Poverty Level. If the combined income is less than or equal to the monthly income level the individual is eligible for Q04

<u>Needs Group Size</u>	<u>Monthly Income Level</u>
2	\$3,284.10

11. Effective [REDACTED] 2016, the FPL for an assistance unit of two person is \$1,335.00. The income limit for ALMB is \$3,284.10, or 246% of the FPL.
12. The Department correctly determined that the assistance unit's gross unearned income was \$3,780.10 per month. ($\$694.00 + \$33.33 + \$2,052.80 + \$1,000.00 = \$3,780.10$)
13. The Department correctly determined that the assistance unit's monthly applied income of \$3,780.10 exceeded 246% of the FPL.

14. The Department was correct to discontinue the Appellant's benefits under the MSP program because the assistance unit's income exceeds the allowable limits for the ALMB program.

DISCUSSION

The Department correctly determined the Appellant's household income exceeds the program limits for ALMB limit for two. The Department uses gross SSA income in calculating eligibility for the program.

DECISION

The Appellant's appeal is DENIED.



Miklos Mencseli
Hearing Officer

C: CarolSue Shannon, Operations Manager Danbury DSS R.O. # 31

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.