

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

██████████ 2017  
Signature Confirmation

Client ID # ██████████  
Request # 800661

**NOTICE OF DECISION**

**PARTY**

██████████  
██████████  
██████████

**PROCEDURAL BACKGROUND**

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

On ██████████ 2016, the Appellant requested an administrative hearing to contest the Department's denial date of 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:

██████████ Appellant  
Jessica Gulianello, Department's Representative  
Sybil Hardy, Hearing Officer

The hearing record was held open for the submission of additional information. On [REDACTED] 2017, the hearing record closed.

### **STATEMENT OF THE ISSUE**

The issue is whether the Department correctly denied the Appellant's application for medical assistance benefits under the MSP.

### **FINDINGS OF FACT**

1. As of [REDACTED] 2015, the Appellant receives a gross Social Security benefit of \$1,074.90 per month. (Exhibit 1: Eligibility Management System ["EMS"] Narrative Screen, Exhibit 5: SVES Title II Information ["SVII"] Screen, Exhibit 6: Unearned Income ["UINC"] Screen)
2. The Appellant pays for her Medicare Part B premiums. (Appellant's Testimony)
3. On [REDACTED] 2016, the Appellant's spouse was discharged from Bridgeport Hospital in Bridgeport, Connecticut and admitted to Maefair Health Center of Trumbull for long-term care services. (Appellant's Testimony, Exhibit 1)
4. On [REDACTED] 2016, the Department received an application for benefits under the MSP for the Appellant. (Exhibit 2, Exhibit 8: NOA, [REDACTED]/16, Exhibit 2: Medicare Savings Program Application)
5. The Additional Low Income Medicare Beneficiary ("ALMB") is a program under a medical coverage group under MSP. (Hearing Record)
6. The Appellant is 74 years old (DOB [REDACTED]/43). (Exhibit 2: General Application)
7. The Appellant is married and her spouse lives in a skilled nursing facility. (Appellant's Testimony, Exhibit 2, Exhibit 4: Assistance Status ["STAT"] Screen)
8. As of [REDACTED] 2016, the Appellant receives a Community Spousal Allowance ("CSA"), a diversion of her spouse's income, in the amount of \$1,908.00 to help pay her household and personal expenses. (Hearing Record, Exhibit 2, Exhibit 6)
9. Until [REDACTED] 2016, the Appellant's daughter helped her pay the insurance premiums but is no longer able to cover the payments because of her own financial hardships. (Appellant's Testimony)

10. The income limit for ALMB coverage group for one person is \$2,435.40. (Hearing Record)
11. On [REDACTED] 2016, the Department determined that the Appellant's household income exceeded the income limit for the Medicare Savings Program. (Exhibit 1, Exhibit 4: Assistance Status ["STAT"] Screen)
12. On [REDACTED] 2016, the Department sent the Appellant a NOA indicating that her application for MSP under the Additional Low Income Medicare Beneficiary ("ALMB") was denied because the Appellant's household income exceeds the MSP income limit. (Exhibit 8: NOA, [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 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. Connecticut General Statutes ("CGS") Section 17b-256(f) provides in part that regarding eligibility for Medicare savings programs. 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 ALMB program is the Department's Qualifying Individual Program and has the highest income limit of the three MSP coverage groups.

4. UPM § 2015.05(A) provides that the assistance unit in AABD and MAABD consists of only one member. In these programs, each individual is a separate assistance unit.
5. The Department correctly determined that the Appellant was an assistance unit of one.
6. The Department correctly determined that the income limits for the ALMB coverage group is \$2,435.40.
7. Uniform Policy Manual ("UPM") § 2540.94(D) provides the income criteria to qualify for Medical Assistance through the Qualified Medicare Beneficiaries Medicaid Coverage Group.
  - a. The Department uses AABD income Criteria (Cross Reference: 5000), including deeming methodology, to determine eligibility for this coverage group except for the following:
    - i. The annual cost of living (COLA) percentage increase received by SSA and SSI recipients each January is disregarded when determining eligibility in the first three months of each calendar year;
    - ii. For eligibility to exist income must be equal to or less than 100 percent for the Federal Poverty Level for the appropriate needs group size.
  - b. The income to be compared with the Federal Poverty Level is the applied income for MAABD individuals living in the community (cross reference: 5045). This is true whether the individual lives in an LTCF or in the community.
8. 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:
  - a. 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

- b. 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)
9. UPM § 4530.20 provides in part that the Federal Poverty Level is used as the basis for determining income eligibility for the Qualified Medicare Beneficiaries; Specified Low Income Medicare Beneficiaries.
10. 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 is inaccessible, or
  3. Deemed by the Department to benefit the assistance unit.
11. The Department correctly determined that the Appellant's CSA of \$1,908.00 per month is counted in the calculation of the Appellant applied income.
12. UPM § 5025.05(B)(1) provides that if income is received on a monthly basis, a representative monthly amount is used as the estimate of income.
13. UPM § 5050.13(A)(1) provides that income from the Social Security Administration is treated as unearned income in all programs.
14. The Department correctly determined the Appellant's applied income is \$2,982.90 (\$1,074.90, SSA + \$1,908.00, CSA )
15. The Department correctly determined that the Appellant's applied income exceeds the program income limits of \$2,435.40 for the MSP program.
16. The Department correctly denied the Appellants ALMB benefits.

### **DECISION**

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

  
Sybil Hardy  
Hearing Officer

Pc: Poonam Sharma, Operations Manager, DSS R.O. # 30, Bridgeport  
Jessica Gulianello, Fair Hearings Liaison, DSS R.O. # 30, 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.

### **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.