

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3725

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

Client ID # ██████████
Request # 802584

NOTICE OF DECISION

PARTY

██████████
██████████

PROCEDURAL BACKGROUND

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

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

On ██████████ 2017, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████, 2017.

On ██████████ 2017, 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's Authorized Representative (by phone)
Jacqueline Taft, Eligibility Services Specialist, Department's representative
Roberta Gould, Hearing Officer

STATEMENT OF THE ISSUE

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

FINDINGS OF FACT

1. On [REDACTED] 2016, the Appellant applied for the MSP for himself. (Exhibit 2: Medicare Savings Program application form, Exhibit 6: EMS case narratives and Hearing summary)
2. The assistance unit consists of the Appellant and his spouse, [REDACTED]. (Exhibit 2 and Hearing summary)
3. The Appellant received a gross monthly Social Security benefit of \$1,947.00. (Exhibit 3: SVES Title II information and Hearing summary)
4. The Appellant's spouse received gross monthly earnings of \$1,449.96 from [REDACTED]. (Exhibit 4: EMS MA Financial Eligibility screen and Hearing summary)
5. On [REDACTED], 2016, the Department determined that the assistance unit was ineligible for the MSP because the household's total income exceeded the income limit for Additional Low Income Medicare Beneficiaries (ALMB). (Exhibit 1: EMS Notice of Denial dated [REDACTED]/2016 and Hearing summary)

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. Uniform 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 § P-4530.27(2) provides that when determining eligibility for Additional Low Income Medicare Beneficiaries Under 135% of Poverty (ALMB-Q04) for assistance units with earnings, subtract the AABD earned income disregard from the assistance unit's total gross income to come up with the applied earned income. (Cross Reference: 5030.10)
5. UPM § P-4530.27(3) provides for allowing appropriate earned income expenses when the spouse of the applicant or recipient is not eligible for assistance and is working. (Cross Reference: 5020.70)
6. UPM § P-4530.27(4) provides that the Department compares the applied earned income and the gross unearned income of the needs group to 246% of the Federal Poverty Level. If the combined income is below the monthly income level the individual is eligible for Q04

<u>Needs Group Size</u>	<u>Monthly Income Level</u>
1	\$2,472.30
2	\$3,328.38

7. Effective March 1, 2016, the FPL for an assistance unit of two persons is \$1,335.00. The income limit for ALMB is \$3,284.10 or 246% of the FPL. ($\$1,335.00 \times 2.46 = \$3,284.10$)
8. The Department incorrectly determined that the assistance unit's total applied earned income and gross unearned income was \$3,396.96 per month (\$1,449.96 gross earnings + \$1,947.00 gross Social Security benefits)
9. On [REDACTED], 2016, the Department incorrectly determined that the assistance unit's monthly applied income of \$3,396.96 exceeded 246% of the FPL because it did not allow for an earned income disregard or for earned income expense deductions from the Appellant's spouse's earnings.
10. The Department was incorrect when it took action to deny the Appellant's benefits under the MSP because it did not consider earned income disregards and deductions from the assistance unit's income.

DECISION

The Appellant's appeal is **REMANDED** to the Department for further action.

ORDER

1. The Department shall reopen the Appellant's application for ALMB using the AABD earned income disregard and any appropriate earned income expense deductions from the Appellant's spouse's earned income. The Department shall provide the Applicant the opportunity to provide any necessary verifications of such expenses.
2. The Department shall give the Appellant proper notification and a due date to submit all necessary verifications.
3. Compliance of this order is due back to the undersigned no later than [REDACTED] 2017.

Roberta Gould
Hearing Officer

PC: Lisa Wells, Social Services Operations Manager, DSS New Haven
Brian Sexton, Social Services Operations Manager, DSS New Haven
Cheryl Stuart, Social Services Program Manager, DSS New Haven
Jacqueline Taft, Eligibility Services Specialist, DSS New Haven
[REDACTED]

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 06105-3725.

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.