

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

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

CL ID # ██████████
Hearing Request # 805092

NOTICE OF DECISION

PARTY

██████████
████████████████████
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PROCEDURAL BACKGROUND

On ██████████ 2016, the Department of Social Services (the “Department”) sent a notice to ██████████ (the “Appellant”) advising that her Medicare Savings Program Additional Low Income benefits would be discontinued effective ██████████ 2016 because her household’s income exceeded the limit.

On ██████████ 2016, the Appellant requested an administrative hearing because she disagreed with the Department’s decision to discontinue her 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, 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:

██████████ the Appellant,
Timika Sanders, Department Representative
Shelley Starr, Hearing Officer

The hearing record was held open for the submission of additional evidence from the Department. On ██████████ 2017, the hearing record closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to discontinue the Appellant's Additional Low Income Beneficiary benefits through the Medicare Savings Program effective [REDACTED] 2016, was correct.

FINDINGS OF FACT

1. The Appellant is age 73 [DOB [REDACTED]/43] divorced and has been a recipient of a Medicare Savings Program for approximately five years. (Appellant's Testimony; Hearing Record)
2. On [REDACTED] 2016, the Appellant submitted to the Department a W-1QMBR Medicare Savings Programs renewal form to redetermine her eligibility for QMB. (Hearing Summary; Exhibit 2: W-1QMBR renewal form received [REDACTED] 2016)
3. The Appellant receives a monthly gross Social Security benefit ("SSA") of \$2,113.00. (Hearing Summary; Exhibit 2: W-1QMBR renewal form dated [REDACTED]/16; Department's Testimony)
4. The Appellant is employed by [REDACTED] and receives a monthly gross income of \$500.00. (Hearing Summary; Exhibit 2: W1QMBR renewal form dated [REDACTED]/16; Department's Testimony)
5. The Appellant receives monthly IRA payments of \$333.33 or \$4,000.00 annually. (Hearing Summary; Exhibit W-1QMB renewal form dated [REDACTED]/16; Department's Testimony)
6. The Appellant's self-declared total gross monthly income reported on the W-1QMBR form is \$2,946.33. (Hearing Summary; Exhibit 2: W-1-QMBR form dated [REDACTED]/16)
7. On [REDACTED] 2016, the Department sent the Appellant a notice advising her that her Medicare Savings Program ("MSP") benefits would be discontinued effective [REDACTED] 2016 because her income exceeds the program limit for the Additional Low Income Medicare Beneficiaries ("ALMB") program. (Exhibit 1: Notice of Action dated [REDACTED] 2016)

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 (“C.G.S.”) § 17b-256(f) provides for eligibility in the 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 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. UPM § 2540.97 (A)(1) provides for Additional Low Income Medicare Beneficiaries (“ALMB”) Under 135% and states that this group includes individuals who would be Qualified Medicare Beneficiaries described in 2540.94 except that their applied

income is equal to or exceeds 120 percent of the Federal Poverty Level but is less than 135% of the Federal Poverty Level.

6. Effective November 1, 2016, the Department established the income limit under the MSP applicable to the ALMB program for a household of one person as \$2,435.40
7. UPM § 2540.97 (D) (1) & (2) provides in part that the Department uses AABD income criteria (Cross Reference 5000), including deeming methodology, to determine eligibility for this coverage group. The income to be compared with the Federal Poverty Level is the applied income for MAABD individuals living in the community.
8. UPM § P 4530.27 provides that for ALMB, the income of the assistance unit that is compared to the appropriate monthly income level to determine eligibility is the combined total of the applied earned income (after AABD earned income disregards) plus the gross unearned income.
9. UPM § 5001.01 provides the definition of Applied Income and states that Applied income is that portion of the assistance unit's countable income that remains after all deductions and disregards are subtracted.
10. UPM § 5001.01 provides the definition of Unearned Income and states that Unearned income which does not constitute compensation for work or services performed or business conducted and includes returns from capital investments when the individual is not actively involved in the production of the income.
11. UPM §5030.10(B)(a) provides for earned income disregards and states in part that the following amounts are disregarded from income earned by the groups indicated.
 1. \$65.00 per month plus $\frac{1}{2}$ of the remaining income is disregarded from the earnings of applicants for assistance to the disabled and aged.
12. The Appellant has monthly gross unearned income of \$2,446.33 (SSA \$2,113.00 + IRA \$333.33) + the applied earned income \$217.50 (\$500.00 EI - \$65.00 EI Disregard = $\$435.00 / 2 = \217.50). \$2,446.33 unearned income + \$217.50 countable EI = \$2,663.83 total monthly countable income.
13. The Department was correct when it determined that the Appellant's total countable income of \$2,663.83 per month exceeds the allowable limit of \$2,435.40 per month for the ALMB program.
14. The Department was correct when it discontinued the Appellant's benefits under the ALMB program because her income exceeded the allowable limit.

DISCUSSION

The Appellant testified at the hearing that although she understands the program income limits, she resides in a geographical region that has a high cost of living. Her discontinuance of the ALMB coverage presents her with a financial hardship as she will have difficulty to pay for her medical premiums and prescriptions due to her living expenses.

After review of the evidence and testimony, I find no error in the Department's discontinuance of the Appellant's Medicare Savings Program (MSP) – ALMB. I did not find in regulations any allowable deductions based on cost of living expenses. The Department based the Appellant's income against the ALMB program income limit, which has the highest income limit for MSP eligibility. After applying the allowable earned income disregards, the Appellant has countable income that exceeds the limit of \$2,435.40 per month for a household of one person.

DECISION

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



Shelley Starr
Hearing Officer

cc: Rachel Anderson, Operations Manager, DO 32, Stamford

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.