

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

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

CL ID # ██████████
Hearing # 809691

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2017, the Department of Social Services (the “Department”) sent ██████████ ██████████ (“the Appellant”) a notice of action denying her Qualified Medicare Beneficiaries (“QMB”) benefits for failure to provide information.

On ██████████ 2017, the Appellant requested an administrative hearing because she contests the denial of such benefits.

On ██████████ 2017, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling an 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:

██████████ Appellant
██████████ Appellant’s Spouse
Timika Sanders, Department’s Representative
Marci Ostroski, Hearing Officer

The Hearing record was held open for the submission of additional documentation. Exhibits were received and the record closed ██████████ 2017.

STATEMENT OF THE ISSUES

The issue is whether the Department correctly denied the Appellant's QMB benefits for failure to provide information.

FINDINGS OF FACT

1. The Appellant completed a QMB redetermination on [REDACTED] 2016. On that redetermination the Appellant reported her income as \$673.00 per month in Social Security benefits and her husband's income as \$42,637.00 annually from dividends and capital gains. (Ex. 2: QMB redetermination signed [REDACTED]/16)
2. On [REDACTED] 2016, the Appellant's QMB was closed for exceeding the QMB income limit. (Hearing Summary)
3. On [REDACTED] 2016, the Department received a QMB application from the Appellant. The Appellant reported her income as \$551.00 in Social Security benefits and \$0 income for her spouse. (Hearing Summary, Ex. 1: QMB application)
4. On [REDACTED] [REDACTED] 2017, the Department processed the Appellant's QMB application and sent the Appellant a 1348 Verification We Need Form requesting annual income and assets of the Appellant's spouse and verification that the Appellant's spouse has applied for Social Security benefits. The information was due [REDACTED] 2017. (Hearing Summary, Ex. 3: 1348 Verification We Need Form dated [REDACTED]/17)
5. On [REDACTED] 2017, the Department issued a Notice of Denial to the Appellant stating that her application for medical assistance has been denied because you did not return all of the required verification we asked for". (Ex. 4: Notice of Action dated [REDACTED]/17)
6. On [REDACTED] 2017, the Appellant provided a letter dated [REDACTED] 2017, from the Appellant's spouse stating that he does not have income and his dividends from his investments are reinvested in his brokerage account. (Ex. A: Letter from [REDACTED] dated [REDACTED]/17)
7. The Appellant's spouse claims the dividends on their federal tax returns as income. (Appellant's spouse's testimony)

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. Section 17b-256(f) of the Connecticut General Statutes provides for the Medicare Saving Program Regulations. 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. Effective March 1, 2016, the Department established the income limit under the Medicare Savings Program (“MSP”) applicable to the QMB program for a household of two persons as \$2816.85 per month.
6. UPM § 2540.94 (D)(1) a provides, in part, that the Department uses AABD income criteria (Cross Reference 5000) to determine eligibility for the additional low income Medicare beneficiaries except that the annual cost of living percentage increase received by SSA and SSI recipients each January is disregarded when determining eligibility for the first three months of each calendar year.
7. UPM § 5020.75(A)(1)(a) provides in part for circumstances in which income is deemed; the Department deems income from the spouse of an MAABD applicant or recipient is he or she is considered to be living with the assistance unit member.
8. UPM § 5020.75(C)(5) provides for deeming methodology; Deemed income is calculated from parents and from spouses in the same way as in AABD for members of the following coverage groups: Qualified Medicare Beneficiaries.
9. The Department correctly requested information on the Appellant’s spouse’s income to use in the eligibility determination.
10. UPM § 5050.13 (A)(1) provides that income from Social Security is treated as unearned income in all programs.
11. UPM § 5050.21 (A)(1) provides for dividends, interest, trusts and royalties; money from these sources is counted as unearned income when it is paid or could be paid to a member of the assistance unit.
12. UPM § 1540.05(A) provides that a statement made by an applicant or a recipient is considered to by the Department to be verified when the available evidence indicates that it is more likely to be true than not.
13. UPM § 1540.05(C) provides that (1) the Department requires verification of information (a) when specifically required by federal or State law or regulations; and (b) when the Department considers it necessary to corroborate an assistance unit’s statements pertaining to an essential factor of eligibility. (2) The Department does not require applicants or recipients to provide documentary evidence to verify the nonexistence of any factor, including the following: (a) lack of income, (b) lack of bank accounts or other assets, (c) absence of one parent from the home.

14. UPM § 1010.05 (A) provides that the assistance unit must supply the Department, in an accurate and timely manner as defined by the Department, all pertinent information and verification to determine eligibility and calculate the amount of benefits. The assistance unit must permit the Department to verify information independently whenever the unit is unable to provide the necessary information, whenever verification is required by law or whenever the Department determines the verification is necessary
15. UPM § 1015.05(C) states that the Department must tell the assistance unit what the unit has to do to establish eligibility when the Department does not have sufficient information to make an eligibility determination.
16. The Department correctly requested verification of the Appellant's spouse's dividends.
17. UPM § 1505.40(B)(1)(b)(1) provides that for incomplete application the following provisions apply if the applicant failed to complete the application without good cause: If assistance cannot be granted: AFDC, AABD and MA cases are denied between the thirtieth day and the last day of the appropriate promptness standard for processing the application.
18. The Department correctly denied the Appellant's application for failure to provide information.


DISCUSSION

The Department was correct in requesting additional information on the Appellant's spouse's dividends as the information that the Appellant self-declared on the application was contrary to information previously reported to the Department. The Appellant's argument that they did not provide information on the dividends because they are not counted as income is not supported by the regulations. UPM is clear that dividends can be treated as unearned income.

The Department was correct to find that the Appellant failed to provide all necessary information to make an eligibility determination and the denial is upheld.

DECISION

The Appellant's appeal is **DENIED**



Marci Ostroski
Hearing Officer

CC: Rachel Anderson, SSOM, DSS, Stamford RO #32
Timika Sanders, DSS, Hartford, RO #32

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 Legal Counsel, Regulations, and Administrative Hearings, 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 his 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.