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

[redacted] 2017
SIGNATURE CONFIRMATION

REQUEST #814182-QMB/Q01
EX. REF. REQUEST #820533-S05

CLIENT ID #[redacted]

NOTICE OF DECISION

PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted] 2017, the Department of Social Services (the "Department"; or "DSS"), sent [redacted] (the "Appellant") a Notice of Discontinuance stating that her application for medical assistance under the Qualified Medicare Beneficiaries ("QMB") program (aka the Medicare Savings Program-"MSP") would be discontinued, effective [redacted] 2017, because he did not return all of the required verification requested.

On [redacted] 2017, the Appellant's representative, **Attorney** [redacted], requested an administrative hearing on behalf of the Appellant to contest the Department's discontinuance of the Appellant's medical assistance under the QMB program.

On [redacted] 2017, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice of Administrative Hearing scheduling a hearing for [redacted] 2017 @ 2:30 PM to address the Department's discontinuance of the Appellant's medical assistance under the QMB program. OLCRAH granted the Appellant's Representative a continuance.

On [redacted] 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 to address the Department's discontinuance of the Appellant's medical assistance under the QMB program. A separate hearing decision will be issued to address the Department's discontinuance of the Appellant's medical assistance under the HUSKY C ("S05") program.

The following individuals were present at the hearing:

Attorney [redacted] Appellant's Representative/Counsel
Guerline Dominique, Representative for the Department
Hernold C. Linton, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Appellant failed, without good cause, to provide the Department with requested verification or information necessary to establish his eligibility for medical assistance under the QMB program.

FINDINGS OF FACT

1. On [redacted] 2016, the Department received the Appellant's redetermination form and a copy of his bank statement for his account at Webster Bank. The Appellant also reported new employment. (Hearing Summary; Dept.'s Exhibit A: Case Narrative)

2. On [redacted] 2016, the Department sent the Appellant's representative a Verification We Need (Form "W-1348") requesting verification of his last day of work for [redacted] and verification of his earnings from [redacted] his new employer. (Hearing Summary; Dept.'s Exhibit C: [redacted]/16 W-1348)

3. The W-1348 informed the Appellant's representative of the outstanding verification needed to process the Appellant's redetermination, and the due date of [redacted] 2016, by which to provide the requested information, or else his benefits may be delayed or denied. (Hearing Summary; Dept.'s Exhibit C)

4. The Appellant's representative provided the Department with four consecutive pay stubs for the Appellant's new employment. However, the pay stubs did not list the Appellant's or his employer's name. (Hearing Summary; Dept.'s Exhibit A: Case Narrative)

5. On [redacted] 2015, the Department discontinued the Appellant's medical assistance under the QMB program for failure to provide all of the required verification requested. (See Facts # 1 to 4; Hearing Summary; Dept.'s Exhibit E: [redacted]/17 Notice of Discontinuance)

6. The Department did not send another W-1348 to the Appellant's representative explaining that the pay stubs provided did not list the Appellant's name or the name of his new employer, after receiving a response to the initial W-1348 that was sent on [redacted] 2016. (See Facts # 1 to 5)

7. The Appellant's Representative did not know that the Department needed additional pay stubs listing the Appellant's name and the name of his new employer to determine his eligibility. (Appellant Representative's Testimony)

8. The Appellant's last day of work for [redacted] was [redacted] 2016 as the contract was taken over by [redacted] on [redacted] 2016, the Appellant's reported new employer. (Appellant's Exhibit #1: [redacted]/17 Letter from AREP; Appellant's Exhibit #2: [redacted]/17 Letter from Choices)

9. On [redacted] 2016, [redacted] took over the contract of [redacted] and became the Appellant's new employer. (Appellant's Exhibit #1; Appellant's Exhibit #2)

10. The Appellant's representative provided four consecutive pay stubs listing the Appellant's name and the name of his new employer. (Appellant's Exhibit #3: Pay stubs)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes (CGS) authorizes the Commissioner of the Department of Social Services to administer the Medicaid program.

2. Section 17b-260 of the Connecticut General Statutes authorizes the commissioner of social services to take advantage of the medical assistance programs provided in Title XIX, entitled "grants to States for Medical Assistance Programs," contained in the Social Security Amendments of 1965.

3. Uniform Policy Manual ("UPM") Section 2540.94(A)(1) provides that this group includes 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.

4. UPM § 2540.94(A)(2) provides that a Qualified Medicare Beneficiary (QMB) may be eligible for full Medicaid benefits under another coverage group during the same period he or she is also eligible under the QMB coverage group.

5. UPM § 2540.94(B) provides that an individual who qualifies for this coverage group may receive payment for:

    1. Medicare Part A and B premiums; and

    2. payment for coinsurance and deductible amounts for services covered under Medicare.

6. UPM § 1015.05(C) provides 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.

7. UPM § 1015.10(A) provides that the Department must inform the assistance unit regarding the eligibility requirements of the programs administered by the Department, and regarding the unit's rights and responsibilities.

8. UPM § 1505.40(A)(1) provides that prior to making an eligibility determination the Department conducts a thorough investigation of all circumstances relating to eligibility and the amount of benefits.

9. The Department failed to inform the Appellant and his representative of the need to provide additional pay stubs listing his name and the name of his new employer.

10. The Department did not tell the Appellant what he had to do to establish eligibility as the Department did not have sufficient information regarding his employment to make an eligibility determination with the pay stubs that were provided by the Appellant's representative.

11. UPM § 1545 provides that the eligibility of an assistance unit is periodically redetermined by the Department. During the redetermination, all factors relating to eligibility and benefit level are subject to review.

12. UPM § 1545.05(A)(1) provides that eligibility is redetermined:

    a. regularly on a scheduled basis; and

    b. as required on an unscheduled basis because of known, questionable or anticipated changes in assistance unit circumstances.

13. UPM § 1545.05(C)(1) provides that the redetermination process is designed to allow continuous participation without interruption in eligibility or in the issuance of benefits.

14. UPM § 1545.05(C)(2) provides that in order to assure continuous participation the Department takes prompt action on all redeterminations.

15. UPM § 1545.05(C)(3) provides that prompt action is taken to effect any interim actions necessitated by changes in circumstances that are discovered during the redetermination process.

16. UPM § 1545.40(A) provides processing requirements as follows:

    1. <u>Agency Action</u>

a. Eligibility is redetermined by the end of the current redetermination period in all cases where sufficient information exists to reach a decision.

b. Continued eligibility is either approved or denied, and the assistance unit notified of the Department's determination.

c. Eligible assistance units are entitled to receive benefits by the normal issuance date in the first month of the new redetermination period, provided that they meet all other program or monthly reporting requirements.

17. UPM § 1545.40(A)(2) provides that unless otherwise stated, assistance is discontinued on the last day of the redetermination month if eligibility is not reestablished through the redetermination process.

18. UPM § 1545.40(A)(3)(a) provides that immediate action is taken in the following situation:

(1) when a change is discovered that can be affected as in interim action prior to the end of the redetermination period; and

(2) when an assistance unit refuses to cooperate with an eligibility requirement.

19. UPM § 1545.40(A)(3)(b) provides that the rules concerning advance notice requirements in the FS program apply to adverse changes that are treated as interim actions prior to the end of the certification period.

20. UPM § 1545.40(B)(1) provides for the continuing of eligibility on incomplete cases:

1. AFDC, AABD, MA

a. If eligibility has not been reestablished by the end of the redetermination period, the Department continues to provide assistance under the following conditions if it appears that the assistance unit will remain eligible:

(1) when the agency is responsible for not completing the redetermination; or

(2) when the assistance unit fails to act timely but completes the redetermination form and any required interview by the last day of the redetermination month; or

(3) when the assistance unit demonstrates good cause for failing to complete the redetermination process.

21. UPM § 1545.40(B)(1)(b) provides that if eligibility is continued, the assistance unit must complete the redetermination process by the end of the month following the redetermination month, unless circumstances beyond the units control continue to delay the process.

22. UPM § 1545.40(B)(1)(c) provides that eligibility may be continued, and the redetermination held pending, as long as:

    (1) circumstances beyond the control of the assistance unit delay completion of the redetermination process; and

    (2) the assistance unit appears to be eligible for assistance.

23. UPM § 1545.40(B)(1)(d) provides that good cause may include, but is not limited to the following hardships.

    (1) illness;
    (2) severe weather;
    (3) death in the immediate family;
    (4) other circumstances beyond the control of the assistance unit.

24. The Department did not send notice to the Appellant advising him of the need to provide pay subs listing his name and the new of his new employer to establish his continued eligibility for medical assistance under the QMB program.

25. Although the Department did send the Appellant's representative an initial W-1348 requesting information needed to determine the Appellant's eligibility, the Department did not send an additional W-1348 explaining that the pay stubs provided were insufficient to make an eligibility determination.

26. The Appellant has good cause for not providing the Department with the additional information regarding his new employer as there were circumstances beyond his control that prevented him from providing the information as the Department did not inform him of the need to provide the information.

27. The Department incorrectly discontinued the Appellant's medical assistance under the QMB program, for failure to provide requested information, as the Department failed to send a follow up W-1348 to the Appellant's representative informing of the need to provide additional pay stubs listing the Appellant's name and the name of his new employer.

DISCUSSION

As a result of the Alvarez vs. Aronson lawsuit the Department made revisions to the policy and procedures concerning the process of verification, [See UP-90-26; UPM § P-1540.10(4); Verification and Documentation Guidelines, 10/90]. One of these changes was the requirement that a Verification We Need ("W-1348") be used when requesting verifications from an applicant/recipient. This requirement was instituted to make sure that the applicant/recipient had a clear understanding of exactly what verification is needed, the due dates, and other acceptable forms of verifications. The policy also provides for the mailing of additional W1348 forms where some of the information previously requested had been provided. In the present case the, although the Department did provide the Appellant's representative with an initial W-1348, after receiving some of the information

previously requested, the Department did not send an additional W-1348 to the Appellant's representative, explaining that additional pay stubs listing the Appellant's name and the name of his new employer were needed. Thus not giving proper notice to the Appellant's representative of what he still needed to do in order to establish the Appellant's eligibility for medical assistance under the QMB program.

DECISION

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

ORDER

1. The Department will reopen the Appellant's medical assistance under the QMB program, effective [redacted] 2017, based on the findings of this hearing decision.

2. The Department will process the Appellant's redetermination using the additional pay stubs provided listing the Appellant's name and the name of his new employer.

3. No later than fourteen (14) days from the date of this hearing decision, the Department will provide the undersigned with a copy of the STAT Screen as proof of the Department's compliance with this order

Hernold C. Linton

Hernold C. Linton
Hearing Officer

Pc: **Musa Mohamud,** Social Service Operations Manager, DSS, R.O. #10, Hartford

Judy Williams, Social Service Operations Manager, DSS, R.O. #10, Hartford

Tricia Morelli, Social Service Program Manager, DSS, R.O. #10, Hartford

Fair Hearing Liaisons, DSS, R.O. #10, Hartford

Attorney [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.