

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 # 829023

NOTICE OF DECISION
PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2017, the Department of Social Services (the “Department”) sent ██████████ ██████████ (the “Appellant”) a Notice of Action (“NOA) discontinuing his medical benefits under the Medicare Savings Program (“MSP”) effective ██████████/17.

On ██████████ 2017, the Appellant requested an administrative hearing to contest the Department’s action.

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:

██████████ Appellant
██████████ Appellant’s wife
Jacqueline Taft, Department’s Representative
Veronica King, Hearing Officer

STATEMENT OF THE ISSUE

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

FINDINGS OF FACT

1. On ██████ 2017, the Department received from the Appellant the W-1QMBR Renewal Form for Medicare Savings Program ("MSP"). (Exhibit 1: W-1QMBR Renewal for Medicare Savings Programs)
2. The Appellant is married to ██████ ("spouse"). The Appellant did not provide any information regarding his spouse. The Appellant was receiving MSP only for himself. (Exhibit 1 and Hearing Record)
3. The Appellant receives a gross Social Security benefit of \$584.00 per month. The Department's eligibility management system is showing that the Appellant's spouse works at "████████████████████". (Exhibit 1 and Hearing Record)
4. On ██████ 2017, the Department sent a Verification We Need ("W-1348") form requesting 4 current consecutive pay stubs for his spouse. (Exhibit 2: W-1348 Verification We Need form)
5. The Appellant provided the requested information. The Department calculated the spouse's monthly earnings using the last two biweekly pay stubs, █/17 gross pay \$1,377.74 + 5/30 gross pay \$1,394.60 = \$2,772.34/2 = \$1,386.17 * 2.15 = \$2,980.26 per month. (Exhibit 4: Pay stubs and Hearing Record)
6. On ██████ 2017, the Department issued the Appellant a Notice of Discontinuance. The notice stated the Department discontinued the Appellant's MSP effective ██████ 2017 because the money your family gets each month is more than our limit. (Exhibit 3: Notice of Discontinuance, █/17)

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 1395l-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 Commissioner shall not apply an asset test for eligibility under MSP. 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 20 days after the date of implementation. Such policies and procedures shall be valid until the time final regulations are adopted. (Conn. Gen. Stats. § 17b-256f)
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. UPM § 5515.05(C)(2) provides that the needs group for an MAABD unit includes the following:
 - a. The applicant or recipient; and

- b. The spouse of the applicant or recipient when they share the same home regardless of whether one or both are applying for or receiving assistance, except in cases involving working individuals with disabilities. In these cases, the spouse (and children) are part of the needs group only in determining the cost of the individual's premium for medical coverage. (Cross Reference 2540.85)
- 7. The Department correctly determined a needs group of two.
- 8. UPM § 5050.13(A)(1) provides that income from the Social Security Administrative is treated as unearned income in all programs.
- 9. 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.
- 10. The Department correctly counted the Appellant's Social Security Benefits of \$584.00 per month as unearned income.
- 11. UPM § 5020.75(A)(1)(a) provides that the Department deems income from the spouse of an MAABD applicant or recipient if he or she is considered to be living with the assistance unit member, except in cases involving working individuals with disabilities. In these cases, spousal income is deemed only in determining the cost of the individual's premium for medical coverage. (Cross Reference: 2540.85)
- 12. 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 it is inaccessible; or
 - 3. Deemed by the Department to benefit the assistance unit.
- 13. The Department correctly determined that the Appellant's spouse earned income counted towards the Appellant's applied income.
- 14. UPM § 5025.05(B)(2) provides for prospective budgeting system and states If income is received on other than a monthly basis, the estimate of income is calculated by multiplying 4.3 by a representative weekly amount that is determined as follows:
 - a. if income is the same each week, the regular weekly income is the representative weekly amount;
 - b. if income varies from week to week, a representative period of at least four consecutive weeks is averaged to determine the representative weekly amount;
 - c. if there has been a recent change or if there is an anticipated future change, the amount expected to represent future income is the representative weekly amount;

- d. if income is received on other than a weekly or monthly basis, the income is converted to a representative weekly amount by dividing the income by the number of weeks covered;

15. The Department correctly determined the spouse's gross wages as \$2,980.26 per month.
16. The Department correctly determined the assistance unit's gross monthly income as \$3,564.26. ($\584.00 SS + $\$2,980.26$ Wages = $\$3,564.26$)
17. UPM § 5515.10(C) provides that the income limit used to determine Medicaid eligibility is the limit for the number of persons in the needs group.
18. Effective [REDACTED] 2017, the 2017 federal poverty guidelines for the 48 Contiguous States and the District of Columbia for a household of two is \$1,353.00 monthly. [Federal Register]
19. Effective [REDACTED] 2017, the Department established the income limit under the MSP application to the QMB program for a household of two as \$2,854.83. ($\$1,353.00 \times 211\%$)
20. The Department correctly determined the Appellant's gross monthly applied income of \$3,564.26 exceeds the QMB income limit of \$2,854.83.
21. Effective [REDACTED] 2017, the Department established the income limit under the MSP application to the SLMB program for a household of two as \$3,125.43. ($\$1,353.00 \times 231\%$)
22. The Department correctly determined the Appellant's gross monthly applied income of \$3,564.26 exceeds the SLMB income limit of \$3,125.43.
23. Effective [REDACTED] 2017, the Department established the income limit under the MSP application to the ALMB program for a household of two as \$3,328.38. ($\$1,353.00 \times 246\%$)
24. The Department correctly determined the Appellant's gross monthly applied income of \$3,564.26 exceeds the ALMB income limit of \$3,328.38.
25. On [REDACTED] 2017, the Department correctly discontinued the Appellant's medical assistance benefits under the MSP effective [REDACTED] 2017.

DISCUSSION

The Appellant's spouse argues that due to her husband several medical issues he has a lot of co-payments and that she can't add him onto her private insurance due to high cost. Unfortunately regulations are clear in regards to countable income and deductions.

The Department correctly determined that the Appellant's household income exceeds the MSP program limits.

DECISION

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

Veronica King

Veronica King
Hearing Officer

Cc: Brian Sexton, Operations Manager, DSS R.O. # 20, New Haven
Lisa Wells, Operations Manager, DSS R.O. #20, New Haven

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.