

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

██████████, 2018
Signature Confirmation

CL ID # ██████████
Hearing # 121646

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████, 2018, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a notice denying her assistance for the Additional Low Income Beneficiary Program ("ALMB") because her household income exceeds the program limits.

On ██████████, 2018 the Appellant requested an administrative hearing because she contests the denial of such benefits.

On ██████████ 2018, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling an administrative hearing for ██████████, 2018.

On ██████████, 2018, 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
██████████, Appellant's Spouse
Althea Francis-Forbes, Department's Representative
Thomas Monahan, Hearing Officer

STATEMENT OF THE ISSUES

The issue is whether the Department correctly denied the Appellant's ALMB benefits effective ██████████ 2018.

FINDINGS OF FACT

1. On [REDACTED] 2018, the Appellant applied for the Department's Medicare savings Programs ("MSP") benefits. (Hearing record, Exhibit 1: Application form)
2. The Appellant's household consists of two persons: the Appellant, [REDACTED] and her husband [REDACTED]. (Appellant's testimony)
3. The Appellant applied only for herself. (Exhibit 1: Application form)
4. The Appellant's spouse is not on Medicare. (Hearing record)
5. The Appellant receives a monthly gross social security disability benefit of \$1,264.00. The Appellant receives Medicare part A and B. (Exhibit 6: Case notes)
6. The Appellant's spouse receives a weekly gross workers compensation benefit of \$567.54. (Spouse's testimony, Exhibit 6: Case notes)
7. The Household's monthly income is \$3,704.22 (\$1,264 S.S. + \$2,440.42 works comp [567.54 x 4.3 weeks])
8. On [REDACTED] 2018 the Department granted the Appellant Qualified Medicare Beneficiary ("QMB") benefits effective [REDACTED] 2018. The grant was for a household of one and did not include the Appellant's spouse's income. (Exhibit 2: Notice of Action)
9. On [REDACTED], 2018, the Department sent the Appellant a notice denying her MSP assistance under the Additional Low Income Beneficiary program effective [REDACTED], 2018 because the household's income exceeded the program limit. (Ex. 3: Notice of Action)

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)]

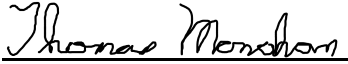
3. Section 17b-256(f) of the Connecticut General Statutes provides for the Medicare Saving Program Regulations. The Commissioner of Social Services shall increase income disregards used to determine eligibility by the Department of Social Services for the federal Qualified Medicare Beneficiary, the Specified 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, 2018, the Department established the income limit under the Medicare Savings Program ("MSP") applicable to the QMB program for a household of two persons as \$2,816.85 per month.
6. UPM § 2540.97(A) provides that the Additional Low Income Medicare Beneficiaries ("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).
7. Effective March 1, 2018, the Department established the income limit under the Medicare Savings Program ("MSP") applicable to the ALMB program for a household of two persons as \$3,375.12 per month.
8. UPM § 5515.05 (C) (2) provides in part that the needs group for a 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 applying for or receiving assistance, except in cases involving working individuals with disabilities.
9. The Department correctly determined that the Appellant is a needs group of two, the Appellant and her spouse.
10. UPM § 2540.94(D) provides, in part, that the Department uses AABD income criteria (Cross Reference 5000) to determine eligibility for the Qualified 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. The income to be compared with the Federal Poverty Level is the applied income for MAABD individuals living in the community.
11. UPM § 2540.97(D) provides, in part, that the Department uses AABD income criteria (Cross Reference 5000) to determine eligibility for the Additional Low Income Beneficiary program 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. The income to be compared with the Federal Poverty Level is the applied income for MAABD individuals living in the community.
12. UPM § 5050.13 (A) (1) provides that income from Social Security is treated as unearned income in all programs.
13. UPM § 5050.75 provides that sick benefits paid through workmen's compensation, private insurance, and unemployment compensation are treated as unearned income subject to appropriate disregards.
14. UPM 5025.05(B) provides for treatment of prospective income; if income is received on a monthly basis, a representative monthly amount is used as the estimate of income. 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. determined as follows: if income is the same each week, the regular weekly income is the representative weekly amount;

15. The Department correctly determined that the Appellant's monthly gross income from Social Security was [REDACTED].
16. The Department correctly determined that the Appellant's spouse's gross monthly workers compensation was [REDACTED].
17. UPM § 5045.10(E) provides that the assistance unit's total applied income is the sum of the unit's applied earnings, applied unearned income, and the amount deemed.
18. The correct applied income for the assistance unit is \$3,704.22.
19. UPM § 2540.94(D)(2) provides in part that for the QMB program, the income to be compared with the Federal Poverty Level is the applied income of MAABD individuals living in the community.
20. UPM § 2540.97(D)(2) provides in part that for the ALMB program, the income to be compared with the Federal Poverty Level is the applied income of MAABD individuals living in the community.
21. The Appellant's applied income of \$3,704.22 is over the QMB income limit of \$2,894.92 and the ALMB limit of \$3,375.12.
22. The Appellant is ineligible for the QMB and ALMB programs.
23. The Department correctly denied the Appellant's application for the MSP (QMB, ALMB).

DECISION

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



Thomas Monahan
Hearing Officer

C: Patricia Ostroski, Operations Manager, New Britain Regional Office
Althea Francis-Forbes, Hearing Liaison, New Britain Regional Office

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.