

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

████████████████████
Signature Confirmation

Client ID # ██████████
Request # ████████

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ████████, 2018, the Department of Social Services (the “Department”) issued a Notice of Action (“NOA”) to ████████████████████ (the “Appellant”) denying her application for Medicare Savings Program (“MSP”) benefits because her household’s monthly net income was more than the limit for the program.

On ████████ 2018, the Appellant requested an administrative hearing to contest the Department’s denial of her application for MSP benefits.

On ████████, 2018, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a Notice scheduling the 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:

████████████████████, Appellant
Rosalie Bertolini, Department’s Representative
James Hinckley, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether the Department was correct when it denied the Appellant's application for MSP benefits for the reason that her household's income exceeded the limit.

FINDINGS OF FACT

1. The Appellant is 71 years old. (Hearing Record)
2. The Appellant is married and resides with her husband, [REDACTED] (her "husband"), who is 73 years old. (Hearing Record)
3. Both the Appellant and her husband are eligible for Medicare Part A benefits. (Hearing Record)
4. The Appellant receives Social Security in the gross amount of \$1,954.00 per month, which is her only source of income. (Hearing Record, Appellant's wife's testimony)
5. The Appellant's husband receives Social Security in the gross amount of \$1,487.00 per month, and an annuity payment in the gross amount of \$307.70 per month, which are his only two sources of income. (Hearing Record, Appellant's wife's testimony)
6. The Appellant's household has total gross income of \$3,748.70 (\$1,954.00 Appellant's Social Security + \$1,487.00 husband's Social Security + \$307.70 husband's annuity). (Hearing Record)
7. On [REDACTED], 2018 the Appellant applied for MSP benefits. (Hearing Record)
8. On [REDACTED], 2018, the Department issued a NOA to the Appellant denying her application for benefits from the MSP – Additional Low Income Medicare Beneficiaries program because her household's monthly net income was more than the limit for the program. (Ex. 4: NOA dated [REDACTED], 2018)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes ("C.G.S.") authorizes the Commissioner to administer the Medicaid program pursuant to Title XIX of the Social Security Act.
2. UPM § 2540.97(A) provides that the 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).
3. Connecticut General Statutes (C.G.S.) §17b-256(f) provides for regulations for eligibility for Medicare savings programs and provides in part that beginning March 1, 2012, and annually thereafter, the Commissioner of Social Services shall increase income disregards used to determine eligibility by the Department of Social Services for the federal Specified Low-Income Medicare Beneficiary, the Qualified Medicare Beneficiary, and the Qualifying Individual Programs, administered in accordance with the provisions of 42 USC 1396d(p), by an amount that equalizes the income levels and deductions used to determine eligibility for said programs with income levels and deductions used to determine eligibility for the ConnPACE program under subsection (a) of section 17b-492.
4. Section 17b-492(a) C.G.S. provides in part that: Eligibility for participation in the program shall be limited to any resident (1) who is sixty-five years of age or older or who is disabled, (2) whose current annual income at the time of application or redetermination, if unmarried, is less than twenty thousand eight hundred dollars or whose annual income, if married, when combined with that of the resident's spouse is less than twenty-eight thousand one hundred dollars; and that on January 1, 2012, and annually thereafter, the commissioner shall increase the income limits established under this subsection over those of the previous fiscal year to reflect the annual inflation adjustment in Social Security income, if any, and that each such adjustment shall be determined to the nearest one hundred dollars.

The income standards for the three MSP programs, Qualified Medicare Beneficiary (QMB), Specified Low-Income Medicare Beneficiary (SLMB) and Additional Low-Income Medicare Beneficiary (ALMB) are adjusted annually, and incorporate deductions and disregards into the standards so that eligibility is determined by comparing gross income to the appropriate standard.

In █████ 2018, the income limit for ALMB for a couple was \$3,375.12.

In █████ 2018, the Appellant's household's total income of \$3,748.70 exceeded the ALMB income limit for a couple of \$3,375.12.

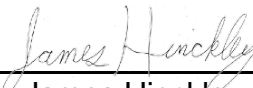
The Department was correct when it denied the Appellant's application for MSP on █████ 2018, because her household's income of \$3,748.70 exceeded the \$3,375.12 limit for ALMB, the MSP program with the highest limit of the three programs.

DISCUSSION

The Appellant argued that the eligibility determination made by the Department was not fair because it did not take into account the monthly Medicare part B premiums deducted from the couple's Social Security benefits, the other medical insurance premiums they both pay, and the significant drugs costs they incur because they are in the "donut hole" of the Medicare Prescription Drug Program. While these are valid concerns, the Department must determine eligibility for the program in accordance with law. In the MSP programs, medical deductions are not taken into consideration because all allowable deductions are already built into the income limits established for each program.

DECISION

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



James Hinckley
Hearing Officer

cc: [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, 25 Sigourney Street, Hartford, CT 06106-5033.

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, 25 Sigourney Street, Hartford, CT 06106. 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.