

**STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATION AND ADMINISTRATIVE HEARINGS
55 Farmington Ave
HARTFORD, CONNECTICUT 061105-3725**

[REDACTED]
Signature Confirmation

**CL ID # [REDACTED]
HEARING ID #125280**

NOTICE OF DECISION

PARTY

[REDACTED]

REASON FOR HEARING

On [REDACTED], the Department of Social Services (the "Department") sent [REDACTED] (the "Appellant") a Notice of Action ("NOA") denying her application for medical benefits under the Medicare Savings Program ("MSP") program for herself and her spouse.

On [REDACTED], the Appellant requested an administrative hearing to contest the Department's decision to deny such benefits.

On [REDACTED], the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for [REDACTED].

On [REDACTED], 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:

[REDACTED], the Appellant
Al Grande, Department's representative
Miklos Mencseli, Hearing Officer

STATEMENT OF ISSUE

The issue to be decided is whether the Department's decision to deny benefits under the Medicare Savings Program due to excess income was correct.

FINDING OF FACTS

1. On [REDACTED], the Department received the Appellant's application for the Medicare Savings Programs ("MSP"). (Summary, Exhibit 2: Department's Case Notes)
2. On [REDACTED], the Department processed the Appellant's application. (Summary, Exhibit 2)
3. The Appellant lives with her spouse and they both receive Social Security Disability ("SSD") benefits. (Summary)
4. The Appellant's spouse currently receives Medicare and the Appellant will be eligible for Medicare in [REDACTED] 2018. (Summary)
5. The Appellant reported monthly income of \$2,136.00 she receives in Social Security Disability ("SSD") benefits. (Summary)
6. The Appellant's spouse reported monthly income of \$2,043.00 he receives in Social Security Disability ("SSD") benefits. (Summary)
7. The Department determined the Appellant's household income for two exceeds the SLMB and the Additional Low Income Medicare Beneficiaries ("ALMB") income limits.
8. On [REDACTED], the Department sent a NOA to the Appellant advising her that her application for the Medicare Savings Program ("MSP") is denied because the household income for two is more than the limit for the program. (Exhibit 1: NOA dated [REDACTED])
9. The Appellant provided a letter from the Social Security Administration (SSA) verifying her Spouse's monthly benefit. His monthly benefit is \$2,043.00 before the deduction of \$134.00 for medical premium providing a regular monthly benefit of \$1,909.00. (Exhibit 4: SSA letter dated [REDACTED])
10. The Appellant provide a [REDACTED] Bank statement verifying her SSD payment of \$2,136.00. (Exhibit 5: [REDACTED] Bank statement for the period of [REDACTED] – [REDACTED])
11. The [REDACTED] Bank statement shows a deposit of \$1,823.70 for her spouse that is different from the award letter from SSA that states his monthly amount is

\$1,909.00. (Exhibit 4 & 5)

12. The Department does not determine Social Security amounts or deductions from Social Security benefits. (Department's Representative 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.
2. Uniform Policy Manual ("UPM") 2540.95 (A) provides that the SLMB coverage group includes individuals who would be Qualified Medicare Beneficiaries described in 2540.94, except that their applied income exceeds 100 percent of the Federal Poverty Level, but is less than 120 percent of the Federal Poverty Level.
3. UPM 2540.95(D) provides that the Department uses AABD income criteria (Cross-Reference: 5000), including deeming methodology, to determine eligibility for this coverage group except for the following:
 - a. the annual cost of living percentage increase received by SSA and SSI recipients each January is disregarded when determining eligibility in the first three months of each calendar year;
 - b. for eligibility to exist the income must be less than a percentage of the Federal Poverty Level for the appropriate needs group size, as described in paragraph A.
4. 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).
5. UPM 2540.97(D) provides that the Department uses AABD income criteria (Cross Reference 5000), including deeming methodology, to determine eligibility for this coverage group except for the following:
 - a. the annual cost of living percentage increase received by SSA and SSI recipients each January is disregarded when determining eligibility in the first three months of each calendar year;
 - b. for eligibility to exist the income must be less than a percentage of the Federal Poverty Level for the appropriate needs group size, as described in paragraph A.

6. Public Act 09-5, "An Act Concerning A Deficit Mitigation Plan For The Fiscal Year Ending June 30, 2010", amended Section 17b-492 of the Connecticut General Statutes allowing for increased eligibility requirements for the federal Medicare Savings Program under the ConnPACE Plus program. Section 17b-492(a) provides 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, (3) who is not insured under a policy which provides full or partial coverage for prescription drugs once a deductible is met, except for a Medicare prescription drug card endorsed by the Secretary of Health and Human Services in accordance with Public Law 108-173, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, or coverage under Medicare Part D pursuant to said act, and (4) on and after September 15, 1991, who pays an annual forty-five-dollar registration fee to the Department of Social Services.
7. Section 17b-492(a) also provides 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.
8. UPM 5050.13(A)(1) provides benefits from Social Security and Veteran's Benefits income is treated as unearned income in all programs.
9. 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.
10. The Department correctly determined that the Appellant is a needs group of two, the Appellant and her spouse.
11. 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;
12. The Department correctly determined that the Appellant's monthly gross income from Social Security was \$2,136.00.

- 13. The Department correctly determined that the Appellant’s Spouse’s monthly gross income from Social Security was \$2,043.00.
- 14. 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.
- 15. The correct applied income for the assistance unit is \$4,179.00 ($\$2,136.00 + \$2,043.00 = \$4,179.00$)
- 16. UPM P-4530.26 (4) provides that in determining eligibility for Specified Low Income Medicare Beneficiaries (SLMB – Q03) the Department compares the applied earned income and gross unearned income of the needs group to 231% of the Federal Poverty Level. If the combined income is below the monthly income level the individual is eligible for Q03.

<u>Needs Group Size</u>	<u>Monthly Income Level</u>
1	\$2,337.72
2	\$3,169.32

- 17. Effective March 1, 2018, the FPL for an assistance unit of two persons is \$1,372.00. The income limit for SLMB is \$3,169.32, or 231% of the FPL.
- 18. The Department correctly determined that the assistance unit’s gross unearned Income was \$4,179.00 per month. ($\$2,043.00 + \$2,136.00 = \$4,179.00$)
- 19. The Department correctly determined that the assistance unit’s monthly applied income of \$4,179.00 exceeded 231% of the FPL.
- 20. UPM P-4530.27(4) provides that in determining eligibility for Additional Low Income Medicare Beneficiaries (ALMB-Q04) the Department compares the applied income and the gross unearned income of the needs group to 248% of the Federal Poverty Level. If the combined income is less than or equal to the monthly income level the individual is eligible for Q04

<u>Needs Group Size</u>	<u>Monthly Income Level</u>
1	\$2,489.52
2	\$3,375.12

- 21. Effective March1, 2018, the FPL for an assistance unit of two persons is \$1,372.00. The income limit for ALMB is \$3,375.12, or 246% of the FPL.
- 22. The Department correctly determined that the assistance unit’s gross unearned Income was \$4,179.00 per month. ($\$2,043.00 + \$2,136.00 = \$4,179.00$)

23. The Department correctly determined that the assistance unit's monthly applied income of \$4,179.00 exceeded 246% of the FPL.
24. The Department was correct to deny the Appellant's application for the MSP program because the assistance unit's income exceeds the allowable limits for the SLMB and ALMB programs.

DISCUSSION

The Department correctly determined the Appellant's household income exceeds the program limits for SLMB and ALMB limit for two. The Appellant was advised to contact Social Security in regards to the discrepancy in her spouse's monthly benefit amount.

DECISION

The Appellant's appeal is DENIED.



**Miklos Mencseli
Hearing Officer**

C: Peter Bucknall, Operations Manager Waterbury DSS R.O. # 40
DSS Central Office, MSP

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.