

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

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

Case ID # ██████████
Client ID # ██████████
Hearing Request # 127288

NOTICE OF DECISION

PARTY

██████████

PROCEDURAL BACKGROUND

On ██████████ 2018, the Department of Social Services (the "Department") sent a notice to ██████████ (the "Appellant") advising that her Medicare Savings Program benefits would be discontinued effective ██████████ 2018 because her household's income exceeded the limit.

On ██████████, 2018, the Appellant requested an administrative hearing because she disagrees with the Department's decision to discontinue her benefits.

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

On ██████████, 2018, the Appellant requested to reschedule her hearing.

On ██████████, 2018, the OLCRAH issued another Notice rescheduling the administrative hearing for ██████████ 2018.

On ██████████ 2018, the Appellant requested another reschedule.

On ██████████, 2018, the OLCRAH issued another Notice rescheduling the administrative hearing for ██████████ 2018.

On [REDACTED] 2018, 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:

[REDACTED], the Appellant,
Eleana Toletti, Hearing Liaison
Swati Sehgal, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to discontinue the benefits through the Medicare Savings Program effective [REDACTED], 2018 was correct.

FINDINGS OF FACT

1. On [REDACTED], 2018, the Department mailed the Appellant a letter asking her to provide verification in regards to a match it has received from the Department of Labor which shows that she was hired at [REDACTED]. (Exhibit 1: Your Information Does Not Match Letter [REDACTED])
2. On [REDACTED], 2018, the Appellant contacted the Department and reported that she is employed at [REDACTED], earns \$13.00 an hour and works on average 16.5 hours a week. (Exhibit 8: Case Notes, Hearing Summary and Appellant's testimony)
3. On [REDACTED] 2018, the Department calculated the Appellant's monthly earning equals to \$922.35 ($\$13.00 \times 16.5 = 214.50 \times 4.3$). (Hearing Summary and Department's testimony)
4. The Appellant receives \$2108.00 per month in Social Security Disability benefits. (Exhibit 8, Hearing Summary)
5. On [REDACTED] 2018, the Department calculated the Appellant's monthly gross income equals \$3030.35 ($\922.35 monthly earnings + $\$2108$ social security disability income = $\$3030.50$). (Hearing Summary, Department's Testimony, Exhibit 8)
6. On [REDACTED] 2018, the Department issued a notice advising the Appellant that her MSP benefits would be discontinued effective [REDACTED], 2018 because her household's monthly income exceeded the program's limit. (Exhibit 1: Notice of Action dated [REDACTED])

7. The issuance of this decision is timely under Connecticut General Statutes 17b-61(a), which requires that a decision be issued within 90 days of the request for an administrative hearing. The Appellant requested an administrative hearing on [REDACTED] 2018. Therefore, this decision is due not later than [REDACTED], 2018. However, the hearing, which was originally scheduled for [REDACTED], 2018, was rescheduled for [REDACTED], 2018, at the request of the Appellant, and again was rescheduled for [REDACTED] 2018, at the request of the Appellant which caused a 52-day delay. Because this 52-day delay resulted from the Appellant's request, this decision is not due until [REDACTED] 2019, and is therefore timely.

CONCLUSIONS OF LAW

1. Section 17b-2 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 and states in part that beginning in March of 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 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. UPM § 2540.97 A 1 provides for Additional Low Income Medicare Beneficiaries (“ALMB”) Under 135% and states that this group includes individuals who would be Qualified Medicare Beneficiaries described in 2540.94 except that their applied income is equal to or exceeds 120 percent of the Federal Poverty Level but is less than 135% of the Federal Poverty Level.
6. UPM § 5000.01 provides for the definition of earned income and states that Earned Income is income which the assistance unit receives in exchange for the performance of duties or through self-employment and may be in the form of wages, salary, benefits, or proceeds from self-employment.
7. UPM § 5000.01 provides that unearned income is income which does not constitute compensation for work or services performed or business conducted and includes returns from capital investments when the individual is not actively involved in the production of the income.
8. UPM § 5050.13 A 1 provides for the treatment of Social Security and Veteran’s benefits and states that income from these sources is treated as unearned income in all programs.
9. The Department was correct when it determined that Social Security constituted unearned income.
10. UPM § 5025 provides that income which is counted in determining the unit’s eligibility and calculating its benefits must be converted into monthly amounts if it is not already received in that manner.
11. UPM § 5025.05 B 2a provides that 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 and that if income is the same each week, the regular weekly income is the representative weekly amount.

12. The Department was correct when it determined that the Appellant's earnings were \$922.35 per month. ($\$13.00 \times 16.5 \text{ hours} = \214.50×4.3)
13. UPM § 5030.10 B1a provides that \$65.00 per month plus 1/2 of the remaining income is disregarded from the earnings of applicants for assistance to the disabled and aged.
14. The Department was incorrect when it did not apply appropriate disregards.
15. The Appellant's household's applied earned income after disregard was \$428.68 [$\922.35 (wages) $-\$65 = \$857.35/2$].
16. The Department was incorrect when it determined that the Appellant's applied income was \$3030.35 per month [$\922.35 (earnings) + \$2108.00 (Social Security)].
17. The Appellant's correct applied income was \$2536.68 [$\428.68 (earnings after disregard) + \$2108.00 (social security)].
18. Effective March 1, 2018, the Department established the income limit under the MSP applicable to the ALMB program for a household of one person as \$2489.52.
19. The Department was incorrect when it determined that the Appellant's total income of \$3030.50 per month exceeded the allowable limit of \$2489.52 per month for the ALMB program, however the Appellant's income after disregard also exceeded the allowable income limit of \$2489.52 per month for the ALMB program.
20. The Department was correct when it discontinued the Appellant's benefits under the ALMB program because her household's income exceeds the allowable limit.

DISCUSSION

The Department was correct to discontinue the Appellant's benefits under Medicare Savings Program as her income exceeds the income limit for ALMB program. The Department was advised to explore the Appellant's eligibility for Medicaid for Employees with Disabilities.

DECISION

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

Swati Sehgal

Swati Sehgal
Hearing Officer

CC: Brian Sexton, Social Service Operations Manager, DSS, Middletown
Eleana Toletti, Hearing Liaison, DSS, Middletown

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.