

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

██████████
Signature Confirmation

CL ID ██████████
Request ID # ██████████

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") discontinuing her W01 Medicaid, Connecticut Home Care Program for Elders ("CHCP") as her income is more than the program amount limit.

On ██████████, the Appellant requested an administrative hearing to contest the Department's discontinuance of her CHCP.

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

On ██████████, 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's Daughter, Conservator
Bryan Barganier, Department's Representative
Miklos Mencseli, Hearing Officer

The Appellant was not present.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's discontinuance of the Appellant's CHCP benefit was correct as her income is more than the program amount limit.

FINDING OF FACTS

1. The Appellant was an active recipient of CHCP (W01) medical assistance. (Summary, Exhibit 8: Department's Case Notes dated [REDACTED]-17)
2. The Appellant is a resident of [REDACTED]. (Record, Appellant Exhibit E: Appellant's statement of account)
3. The Appellant submitted her redetermination form for the W01 program in [REDACTED]. (Exhibit 8)
4. The Appellant reported receiving income from Social Security, two pensions and Veteran's pension from the Department of Veteran's Affairs ("VA"). (Record)
5. The Department verified the Appellant's gross monthly Social Security income is \$1,528.00, increased to \$1,558.00 effective for [REDACTED] (Summary, Exhibit 3 & 4: Department's unearned income screens)
6. The Appellant receives \$116.64 and \$253.80 as monthly pensions. (Summary, Exhibit 1 & 2: Department's unearned income screens, Appellant's Exhibit C: checking statement)
7. The Appellant receives monthly VA benefits in the amount of \$1,176.00. (Appellant's Exhibit D: savings statement)
8. The Department is excluding the portion of the Appellant's VA pension that is aid and attendance. The countable benefit amount is \$736.00 (\$1,176.00 minus \$440.00 = \$736.00). (Summary, Record, Exhibit 5 & 6: Department's unearned income screens)
9. The Department determined the Appellant's total monthly unearned income is \$2,664.44 (\$1,558.00 + \$253.80 + \$116.64 + \$736.00). (Summary)
10. The monthly income limit for the CHCP program is \$2,250.00. (Summary)
11. On [REDACTED], the Department sent the Appellant a Notice of Discontinuance for W01 Medicaid as her monthly gross income is more than the program limit. (Exhibit 11: NOA dated [REDACTED])

12. The Appellant's Conservator provided a letter from Social Security Administration ("SSA") stating for [REDACTED] and [REDACTED] 2018 the Appellant will receive \$1,290.00, \$1,424.00 on-going. (Appellant's Exhibit B: SSA letter dated [REDACTED])
13. The Appellant's monthly income is insufficient to cover her monthly room and board cost in addition to other expenses. (Record, Appellant's Exhibit E: [REDACTED] statement of account)

CONCLUSION 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"), Section 8040 provides that the Connecticut Home Care Program for Elders provides an alternative to the elderly individual who is inappropriately institutionalized or at risk of institutionalization as long as the individual is not taking an unacceptable risk by putting his or her life and health and that of others in immediate jeopardy.
3. UPM § 5050.13(A) (1) provides that income from Social Security is treated as unearned income for all programs.
4. UPM § 5050.09 (A) provides payments received by the assistance unit from annuity plans, pensions and trusts are considered unearned income.
5. UPM § 5050.13(A) (1) provides that income from Veterans' Benefits is treated as unearned income for all programs.
6. P.A. 12-208 An Act Expanding Access By Veterans to Public Assistance Programs. Section 1. (NEW) (Effective July 1, 2012) (a) To the extent permissible by federal law, the Commissioner of Social Services shall disregard federal Aid and Attendance pension benefits granted to a veteran, as defined in section 27-103 of the general statutes, or the surviving spouse of such veteran when determining income eligibility for the state's Medicare savings, medical assistance and energy assistance programs administered under section 17b-2 of the general statutes.

Conn. Gen. Stat. § 17b-191 (c) To be eligible for cash assistance under the program, a person shall (1) be (A) eighteen years of age or older; (B) a minor found by a court to be emancipated pursuant to section 46b-150; or (C) under eighteen years of age and the commissioner determines good cause for such person's eligibility, and (2) not have assets exceeding two hundred fifty dollars or, if such person is married, such person and his or her spouse shall not have assets exceeding five hundred dollars. In determining eligibility, 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. No person who is a substance abuser and refuses or fails to enter

available, appropriate treatment shall be eligible for cash assistance under the program until such person enters treatment. No person whose benefits from the temporary family assistance program have terminated as a result of time-limited benefits or for failure to comply with a program requirement shall be eligible for cash assistance under the program.

7. The Department correctly determined that the countable VA pension amount is \$736.00 after excluding the portion that is aid and attendance benefits, \$440.00.
8. The Department correctly determined that the Appellant's total monthly unearned income equals \$2,664.44 (\$1,558.00 Social Security + \$116.64 pension + \$253.80 pension + \$736.00 VA benefits) for Medicaid eligibility.
9. UPM § 2540.92 (C) (1) provides Individuals receiving Home and Community Based Services (W01) except as described in subparagraph 3 below, the Department determines income eligibility under this coverage group by comparing the individual's gross income to the Special Categorically Needy Income Limit (CNIL), set at 300% of the maximum SSI amount for one person. To qualify as categorically needy, the individual's gross income must be less than the special CNIL.
10. The current SSI amount for an individual is \$750.00 for 2018.
11. The current special CNIL amount is \$2,250.00 (\$750.00 x 300%).
12. The Department correctly determined that the Appellant's monthly income of \$2,664.44 exceeds the CHCP program limit of \$2,250.00.
13. The Department correctly discontinued the Appellant's CHCP benefits due to excess income being over the \$2,250.00 program income limit.

DISCUSSION

The Department correctly determined the Appellant is not eligible for the W01 medical for CHCP. The Appellant's total gross monthly income is over the program limit. Even with changes in her SSA benefits the Appellant is over the income limit. The Appellant's conservator is the process of establishing a pool trust for her regarding her income.

DECISION

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


Miklos Mencseli
Hearing Officer

C: Peter Bucknall, Operations Manager, DSS R.O. #60 Waterbury

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.

