

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

██████████ 2019
Signature Confirmation

Case ID # ██████████
Client ID # ██████████
Request #137631

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

In ██████████ 2019, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a notice indicating the amount of her income she must contribute to the cost of her long-term care.

On ██████████ 2019, the Appellant's spouse requested an administrative hearing to contest the Department's calculation of her applied income.

On ██████████ 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the hearing for ██████████ 2019.

On ██████████ 2019, in accordance with sections 17b-60, 17b-61, and 4-176e to 4-184, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing.

The following individuals participated at the hearing:

██████████, Appellant's Spouse
Mario Ponzio, Department's Representative by Telephone
Swati Sehgal, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly calculated the Appellant's applied income payable to the long-term care facility.

FINDINGS OF FACT

1. The Appellant, referred to as the Institutionalized Spouse ("IS"), is a recipient of Medicaid and a resident of ██████████ Connecticut. (Hearing summary; Testimony)
2. The Appellant has a spouse who lives in the community ("Community Spouse"). (Hearing summary, Testimony)
3. In ██████████ 2019, the IS's gross monthly Social Security benefit increased from \$1002.00 to \$ 1030.50. (Exhibit 2: Unearned Income details for ██████████; Exhibit 3: Unearned Income details for ██████████, Hearing summary)
4. In ██████████ 2019, the IS's gross monthly Social Security benefit decreased from \$1030.50 to \$1030.00 (Exhibit 4: Unearned Income details for ██████████, and Hearing Summary)
5. The IS's Medicare B premium is paid under Qualified Medicare Beneficiary program. (Hearing summary)
6. The Community Spouse ("CS") is employed at ██████████; his gross monthly income from employment is \$3964.55. (Hearing summary; Testimony)
7. The CS has monthly mortgage obligation of \$1151.71. (Exhibit 7: Mortgage Statement, Hearing summary, Appellant's Testimony)
8. The CS's monthly mortgage amount includes property tax and homeowner's insurance obligation. (Appellant's Testimony)
9. The CS was allowed standard utility allowance of \$736.00 per month. (Hearing Summary)
10. The CS is in agreement with the Department's current calculation of his wife's Applied Income of \$970.00. (Appellant's testimony)
11. 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 ██████████ 2019. Therefore, this decision is due not later than ██████████, 2019". (Hearing Record)

CONCLUSIONS OF LAW

1. Connecticut General Statutes § 17b-2 (6) provides that the Department of Social Services is designated as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Uniform Policy Manual (“UPM”) § 5045.20 provides that assistance units who are residents of Long Term Care Facilities (“LTCF”) or receiving community based services (“CBS”) are responsible for contributing a portion of their income toward the cost of their care. For LTCF cases only, the amount to be contributed is projected for a six-month period.
3. UPM § 5035.25 provides that for resident of long term care facilities (LTCF) and those individuals receiving community-based services (CBS) when the individual has a spouse living in community, total gross income is adjusted by certain deductions to calculate the amount of income which is to be applied to the monthly cost of care.
4. UPM § 5045.20 B (1) (a) provides that the amount of income to be contributed in LTC cases at initial calculation for each month in the six month period for which the contribution is projected, monthly gross income is established as follows: total gross monthly income which was paid or payable to the applicant or recipient, in the six months prior to the period for which the contribution is projected, is divided by six. UPM § 5045.20 (B) (1) (b) provides that the total gross income is reduced by post-eligibility deductions (Cross reference: 5035-"Income Deductions") to arrive at the amount of income to be contributed.
5. The Department correctly determined the IS’s monthly income of \$1030.00.
6. UPM § 5035.25 (B) (1) provides a monthly deduction for LTFC units of a personal needs allowance (“PNA”) of \$50.00, which, effective July 1, 1999 and annually thereafter, shall be increased to reflect the annual cost of living adjustment used by the Social Security Administration.
7. Connecticut General Statutes § 17b-272 provides for that effective July 1, 2011, the Commissioner of Social Services shall permit patients residing in nursing homes, chronic disease hospitals and state humane institutions who are medical assistance recipients under sections 17b-260 to 17b-262, inclusive, 17b-264 to 17b-285, inclusive, and 17b-357 to 17b-361, inclusive, to have a monthly personal fund allowance of sixty dollars.
8. The Department correctly allowed the Appellant a PNA of \$60.00.
9. UPM § 5035.25 (B) (2) provides for a monthly deduction from the income of assistance units in LTCF’s a CSA when appropriate; (Cross Reference 5035.30)
10. The Department correctly determined that CS is ineligible for CSA.

11. UPM § 5035.25 (B) (4) provides a monthly deduction for LTFC units for Medicare and other health insurance premiums, deductibles, and coinsurance costs when not paid for the Department or any other third party.
12. The Department correctly determined that the Appellant's Medicare premium is paid by the Department.
13. UPM § 5035.30(A)(1) provides that the Community Spouse Allowance (CSA) is used as an income deduction in the calculation of the post-eligibility applied income of an institutionalized spouse (IS) only when the IS makes the allowance available to the community spouse (CS) or for the sole benefit of the CS.
14. UPM § 5035.30 (B) (1) (a) (b) provides that the calculation of the CSA is equal to the greater of the following: the difference between the Minimum Monthly Needs Allowance ("MMNA") and the community spouse gross monthly income; or the amount established pursuant to court order for the purpose of providing necessary spousal support.
15. The Department determined that the CS's monthly gross income is \$3964.55.
16. UPM § 5035.30 (B) (2) (a) (b) provides that the MMNA is the amount which is equal to the sum of the amount of the community spouse's excess shelter costs as calculated in section 5035.30 (B) (3) and 150 percent of the monthly poverty level for a unit of two persons.
17. UPM § 5035.30 (B)(3) provides the community spouse's excess shelter cost is equal to the difference between his or her shelter cost as described in section 5035.30 B.4. and 30% of 150 percent of the monthly poverty level for a unit of two persons.
18. UPM § 5035.30 (B)(4) provides the community spouse's monthly shelter cost includes:
 a. rental costs or mortgage payments, including principle and interest; and b. real estate taxes; and c. real estate insurance; and d. required maintenance fees charged by condominiums or cooperatives except those amounts for utilities; and e. Standard Utility Allowance (SUA) used in the FS program for the community spouse.
- UPM § 5035.30 (B) (5) (a) (b) provides that the MMNA may not exceed the greatest of either the maximum MMNA or an amount established through a Fair Hearing.
19. The Department correctly determined that the CS is not eligible for CSA
 See table below:

| Shelter Costs: | Amount |
|----------------|------------|
| Mortgage | \$ 1151.71 |
| Home Insurance | 0.00 |
| Property Tax | 0.00 |

| | |
|--|------------------|
| Standard Utility Allowance | + 736.00 |
| Total shelter costs: | <u>\$1887.71</u> |
| Less base shelter costs [30% of 150% of the federal poverty level (FPL) for two] | <u>- 634.50</u> |
| Excess shelter costs: | \$ 1253.21 |
| Plus 150% of the FPL for two: | <u>+2,115.00</u> |
| Equals the MMNA | \$3368.21 |
| Maximum MMNA | \$3160.50 |
| Community Spouse's Income | - \$3964.55 |
| Community Spouse Allowance | \$0.00 |

20. The Appellant's monthly Applied Income effective [REDACTED] 2019 as calculated by the Department is \$970.50

| | |
|-----------|--------------------------|
| \$1030.50 | IS's income |
| -\$60.00 | Personal needs Allowance |
| \$970.50 | Applied Income |

21. The Appellant's monthly Applied Income effective [REDACTED] 2019 as calculated by the Department is \$970.

| | |
|-----------|--------------------------|
| \$1030.00 | IS's income |
| -\$60.00 | Personal needs Allowance |
| \$970.00 | Applied Income |

22. The Department correctly determined that the Applied Income changed to \$970.00 in [REDACTED] 2019.

DISCUSSION

The concern of the community spouse was the change of Applied Income. He did not understand the liability payment to the facility and bills he was receiving from the facility. The Department's representative addressed his concerns and advised the community spouse to speak with the nursing home book keeper. The Department's representative also offered to speak with nursing home book keeper to clarify community spouse's

concerns regarding the bills he was receiving from the facility and the payment he has made to the facility. The Appellant agreed with the recommendation of the Department's representative.

DECISION

The Appellant's appeal is denied.



Swati Sehgal
Hearing Officer

Cc: Brian Sexton, Social Services Operations Manager, R. O. 50, Middletown
Mario Ponzio, Fair Hearing Liaison, New Haven

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, law, and 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 06105-3725.

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, if 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 06105-3725. 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.