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

2019
Signature Confirmation

Case ID #
Client ID #
Request # 143128

NOTICE OF DECISION
PARTY

PROCEDURAL BACKGROUND

On 2019, the Department of Social Services (the "Department") sent (the "Appellant") a notice denying her application for medical benefits under the Qualified Medicare Beneficiaries ("QMB") program.

On 2019, the Appellant requested an administrative hearing to contest the Department's denial of such benefits.

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

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

The following individuals were present at the hearing:

Appellant
Appellant's Representative
Sonia Dawidowicz, Interpreter, ITI Translates
Timika Cineus, Department's Representative
Christopher Turner, Hearing Officer

The hearing record was reopened on [redacted] 2019 per the request of the Appellant's representative. The record closed [redacted] 2019 after receipt of the Departments notice of action.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department was correct to deny the Appellant's QMB application due to not meeting program requirements.

FINDINGS OF FACT

1. On [redacted] 2019, the Appellant applied for Medicare Part A at the Social Security Administration office in Stamford, CT. (Appellant's Exhibit A: Application summary)

2. On [redacted] 2019, the Department received the Appellant's application for medical assistance under the QMB Program. (Exhibit 1: Application; Hearing summary)

3. On [redacted] 2019, the Department sent the Appellant a notice indicating that her QMB application was denied because the Appellant is not an active Medicare recipient. (Exhibit 2: Notice of action)

4. The QMB program is also referred to as the Medicare Savings Program ("MSP"). (Record)

5. The Appellant is [redacted] years old ([redacted]). (Record; Appellant's testimony; Appellant's Exhibit A)

6. The Appellant is a lawful permanent resident with a [redacted] date of entry. (Record; Appellant's testimony)

7. The Appellant receives a pension for $413.00 from [redacted]. (Exhibit 1)

8. On [redacted] 2019, the Department granted the Appellant MSP coverage. In view of this, there has been no "action" taken to deny MSP coverage under the Medicaid program. (Exhibit 3: Notice of action)

CONCLUSIONS OF LAW

1. Connecticut General Statutes § 17b-2 provides that the Department of Social Services is designated as the state agency for the administration of (6) the Medicaid program pursuant to Title XIX of the Social Security Act.

2. Connecticut General Statutes § 17b-260 provides for acceptance of federal grants for medical assistance. The Commissioner of Social Services is authorized to take advantage of the medical assistance programs provided in Title XIX, entitled "Grants to States for Medical Assistance Programs", contained in the Social Security Amendments of 1965 and may administer the same in accordance with the requirements provided therein, including the waiving, with respect to the amount paid for medical care, of provisions concerning recovery from beneficiaries or their estates, charges and recoveries against legally liable relatives, and liens against property of beneficiaries.

3. Title 42 of the United States Code § 1395i-2(a) provides for individuals eligible to enroll. Every individual who – (1) has attained the age of 65, (2) is enrolled under part b of this subchapter, (3) is a resident of the United States, and is either (A) a citizen or (B) an alien lawfully admitted for permanent residence who has resided in the United States continuously during the 5 years immediately preceding the month in which he applies for enrollment under this section, and (4) is not otherwise entitled to benefits under this part, shall be eligible to enroll in the insurance program established by this part. Except as otherwise provided, any reference to an individual entitled to benefits under this part includes an individual entitled to benefits under this part pursuant to enrollment under this section or section 1395i-2a of this title.

   Title 42 of the United States Code § 1396d(p)(1) provides for the definition of a qualified Medicare beneficiary as an individual: (A) 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.

   Uniform Policy Manual ("UPM") § 2540.94 (A) provides for coverage group description for the Qualified Medicare Beneficiaries ("QMB"/"MSP"). 1. This group includes 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. 2. A Qualified Medicare Beneficiary (QMB) may be eligible for full Medicaid benefits under another coverage group during the same period he or she is also eligible under the QMB coverage group.

   UPM § 2540.94 (B) provides an individual who qualifies for this coverage group may receive payment for: 1. Medicare Part A and B premiums; and 2. payment for coinsurance and deductible amounts for services covered under Medicare.

   UPM § 2540.94 (C) provides an individual qualifies for benefits under this coverage group starting the first day of the calendar month following the month in which an individual is determined eligible and continuing for every month thereafter in which the individual meets the criteria described in paragraph A.

The Appellant does meet the definition of a qualified Medicare beneficiary as established by federal code.

4. UPM § 1570.25 (c)(2)(k) provides that the Fair Hearing Official renders a Fair Hearing decision in the name of the Department, in accordance with the Department's policies and regulations. The Fair Hearing decision is intended to resolve the dispute.

   UPM § 1570.25(F)(1) provides that the Department must consider several types of issues at an administrative hearing, including the following:

   a. eligibility for benefits in both initial and subsequent determinations.

   The Department has approved the Appellant's MSP application. As a result, the Appellant's appeal issue has been resolved.

   The Appellant's hearing issue has been resolved, therefore, there is no issue on which to rule. "When the actions of the parties themselves cause settling of their differences, a case becomes moot." McDonnell v. Maher, 3 Conn. App. 336 (Conn. App. 1985), citing, Heitmuller v. Stokes, 256 U.S. 359, 362-3, 41 S.Ct. 522, 523-24, 65 L.Ed. 990 (1921). The service that the Appellant had originally requested has been approved; there is no practical relief that can be afforded through an administrative hearing.

DECISION

The Appellant's appeal is dismissed as moot.

Christopher Turner
Hearing Officer

Cc: Yecenia Acosta, Operations Manager Stamford
Timika Cineus, Fair Hearings Liaison Stamford

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 the Department of Social Services, Director, Office of Legal Counsel, Regulations, and Administrative Hearings, 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 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. 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 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.