

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

Client ID # ██████████
Request # 144830

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████ 2019, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA) denying his application for the Q04 - Additional Low Income Medicare Beneficiaries ("ALMB") program under the Medicare Savings Program ("MSP") due to excess income.

On ██████████ 2019, the Appellant requested an administrative hearing to contest the Department's decision to deny 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, the Appellant requested a continuance of the hearing, which was granted. The Administrative hearing was re-scheduled for ██████████ ██████████ 2019.

On ██████████ 2019, 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:

██████████, Appellant
██████████, Appellant's son-in-law
Amy McDonough, Department Representative
Almelinda McLeod, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Q04 ALMB benefits under the MSP due to excess income was correct. .

FINDINGS OF FACT

1. On ██████ 2019, the Appellant and his spouse applied for ALMB benefits under the MSP program. (Hearing record)
2. The Appellant's gross monthly Social Security income is \$2383.50. (Exhibit 3, Unearned income information)
3. The Appellant's spouse gross Social Security income is \$1191.00. (Exhibit 3, Unearned Income information)
4. The Appellant has a monthly pension of \$360.00 per month. (Hearing record and Exhibit 2, NOA)
5. The income limit under the MSP applicable to the ALMB program for a couple is \$ 3466.14. (Exhibit 4, Income limits & standards as of ██████/19)
6. The total household income totals \$3934.50: [\$2383.50 + \$1191.00 + \$360.00] (Hearing record)
7. On ██████ 2019, the Department determined that the households total Social security income of \$3574.50 [\$2383.50 +\$1191.00] excluding the monthly pension of \$360.00 per month, exceeded the income limit for the ALMB program. (Hearing summary)
8. On ██████ ██████ 2019, the Department issued a NOA denying the Appellants' application for ALMB because the households' monthly net income exceeded the limit for this program. (Exhibit 2).
9. The issuance of this decision is timely under section 17b-61(a) of Connecticut General Statutes, 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. This decision, therefore, was due no later than ██████, 2019. However, the Appellant requested a re-schedule which delayed the closing of this record. Because of this 16 day delay in the close of the hearing record, this final decision is now due ██████, 2019 and it is therefore timely.

CONCLUSIONS OF LAW

1. Section 17b-2 (6) of the Connecticut general Statutes 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. The Department's uniform policy manual ("UPM") is the equivalent of a state regulation and as such carries the force of law. "Bucchere v. Rowe, 43 Conn. Supp. 175, 178 (1994) (citing Conn. Gen. Stat. § 17b-10; Richard v. Commissioner of Income Maintenance, 214 Conn. 601, 573 A.2d 712 (1990)).
3. 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.
4. **The Department correctly determined that the Social Security income constituted unearned income.**
5. Section 17b-256 (f) of the Connecticut General Statutes provides in part, that 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 percent of the federal poverty level but less than two hundred thirty –one percent of the federal poverty level qualifying for the Specified Low- Income Medicare Beneficiary program, and;
 - (3) at or above two hundred thirty-one percent but less than two hundred forty-six percent (246%) of the federal poverty level qualifying for the Qualifying Individual program.

6. Uniform Policy manual § 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 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).

7. UPM § 2540.97 (D) (1) 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 SA 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.

8. UPM § 2540.97 (D) (2) provides that the income to be compared with the Federal Poverty Level is the applied income for MAABD individuals living in the community. (Cross Reference 5045). This is true whether the individual lives in an LTCF or in the community.

9. UPM § 2540.97 (E) and UPM § 4005.10 (A) (4) (b) provides that effective ██████ 2001, there is no asset limit for this coverage group.


10. The FPL effective ██████ 2019 for a family of two in the 48 continuous states is \$16,910.00. (Federal register)

11. Effective ██████ 2019, the FPL for an assistance unit of two people is \$1410.00 rounded up. [\$16,910 / 12 months.] The income limit for ALMB is \$3466.55 or 246% of the FPL. [\$1410.00 x 2.46]. (Federal Register)

12. The Department correctly determined that the assistance unit's total Social Security gross income was \$ 3574.50 per month.
13. The Department correctly determined that the Appellants' monthly applied income of \$3574.50 exceeded \$3466.55, 246% of the FPL.
14. The Department correctly discontinued the Appellant and his spouse's ALMB benefits under the MSP because the assistance unit's income exceeds the allowable limit.

DECISION

The Appellant's appeal is DENIED


Almelinda McLeod
Hearing Officer

CC: Brian Sexton, SSOM Middletown Regional Office
Amy Macdonough, Fair Hearing liaison, 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 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, 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 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.