

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: ██████████  
Client: ██████████  
Request: 148980

**NOTICE OF DECISION**

**PARTY**

████████████████████  
████████████████████  
████████████████████  
████████████████████

**PROCEDURAL BACKGROUND**

On ██████████ 2019, the Department of Social Services (the "Department") issued ██████████ (the "Appellant") a notice informing her that the Department had found ██████████, the Appellant's spouse, ineligible to receive Medicare Savings Program-Qualified Medicare Beneficiaries ("MSP-QMB") benefits.

On ██████████ 2019, the Appellant filed a request for an administrative hearing with the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH").

On ██████████ 2019, the OLCRAH issued a notice to the Appellant scheduling the administrative hearing for ██████████ 2019.

On ██████████, 2019, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, the OLCRAH held an administrative hearing. The following individuals attended the administrative hearing:

████████████████████, Appellant  
████████████████████, Appellant's witness (also acting as interpreter)  
Lindsay Vallee, Department's representative  
Eva Tar, Hearing Officer

The hearing record closed on ██████████ 2019.

**STATEMENT OF ISSUE**

The issue is whether the Appellant's spouse was eligible to receive MSP-QMB benefits paid by the State of Connecticut.

### **FINDINGS OF FACT**

1. Through [REDACTED] 2019, the Appellant and her spouse received MSP-QMB benefits paid by State of New York. (Department's Exhibit 6)
2. In [REDACTED] or [REDACTED] 2019, the Appellant and her spouse moved to Connecticut. (Appellant's witness testimony)
3. On or after [REDACTED] 2019, the Department received an *Application for Medicare Savings Programs (QMB, SLMB, ALMB)* for the Appellant and her spouse. (Department's Exhibit 1)
4. The Department granted the Appellant MSP-QMB benefits paid by the State of Connecticut effective [REDACTED] 2019. (Department's Exhibit 2)
5. On [REDACTED] 2019, the Department issued a *Notice of Action* to the Appellant that the Appellant's spouse had been determined ineligible to receive MSP-QMB benefits paid by the State of Connecticut. (Department's Exhibit 2)
6. The [REDACTED] 2019 *Notice of Action* contained erroneous information; the Appellant's spouse was eligible to receive MSP-QMB benefits paid by the State of Connecticut effective [REDACTED] 2019. (Department's representative testimony)
7. The Social Security Administration declined the Department's attempts to grant MSP-QMB benefits paid by the State of Connecticut to the Appellant's spouse. (Department's representative testimony)
8. As late as [REDACTED] 2019, the Social Security Administration's computer system identified the Appellant's spouse as receiving MSP-QMB benefits paid by the State of New York. (Department's Exhibit 5)
9. The Social Security Administration is looking into the computer system issue. (Appellant's witness testimony)
10. Connecticut General Statutes § 17b-61 (a) provides that a final decision be issued within 90 days of a request for an administrative hearing. The OLCRAH received the Appellant's faxed hearing request on [REDACTED] 2019. This decision was not due until [REDACTED] 2020. This decision is timely.

### **CONCLUSIONS OF LAW**

1. Section 17b-2 of the Connecticut General Statutes provides in part that the Department of Social Services is the designated 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 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. Title 42, United States Code (“U.S.C.”) § 1396d (p)(1) provides:  
The term "qualified medicare beneficiary" means an individual-
- (A) who is entitled to hospital insurance benefits under part A of subchapter XVIII (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 1395i–2a of this title](#)),
  - (B) whose income (as determined under [section 1382a 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), and
  - (C) whose resources (as determined under [section 1382b of this title](#) for purposes of the supplemental security income program) do not exceed twice the maximum amount of resources that an individual may have and obtain benefits under that program or, effective beginning with January 1, 2010, whose resources (as so determined) do not exceed the maximum resource level applied for the year under subparagraph (D) of [section 1395w–114\(a\)\(3\) of this title](#) (determined without regard to the life insurance policy exclusion provided under subparagraph (G) of such section) applicable to an individual or to the individual and the individual's spouse (as the case may be).

42 U.S.C. § 1396d (p)(1).

“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, ... , 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....” Conn. Gen. Stats. § 17b-256f.

An individual who qualifies for this [MSP-QMB] 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. Uniform Policy Manual (“UPM”) § 2540.94 B.

**Section 17b-256f of the Connecticut General Statutes authorizes the Department to grant MSP-QMB benefits to eligible Connecticut residents.**

4. “The residency requirement for Medical Assistance is met by living in the state and in some instances meeting other conditions....” UPM § 3010.10 A.

**The Appellant’s spouse met the Connecticut residency requirement of the MSP-QMB program.**

5. “The individual must verify discontinuance of assistance received from out-of-state which cannot be received concurrently.” UPM § 3099.30 B.

**The Appellant correctly verified the discontinuance of her spouse’s MSP-QMB benefits through the State of New York effective [REDACTED] 2019.**

6. The Qualified Medicare Beneficiaries coverage 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.” UPM § 2540.94 A. 1.

“An individual qualifies for benefits under [the Qualified Medicare Beneficiaries 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.” UPM § 2540.94 C.

**The Department correctly determined that the Appellant’s spouse was eligible to receive MSP-QMB benefits paid by the State of Connecticut, effective [REDACTED] 2019.**

### DISCUSSION

The State of New York terminated the MSP-QMB benefits of the Appellant’s spouse effective [REDACTED] 2019.

The Appellant’s spouse was eligible to receive MSP-QMB benefits paid by the State of Connecticut effective [REDACTED] 2019. However, the Department’s representative was unable to grant those MSP-QMB benefits due to outdated information in the federal Social Security Administration’s computer system.

Once the Social Security Administration corrects the error, the Department should be able to grant MSP-QMB benefits paid by the State of Connecticut to the Appellant’s spouse, effective [REDACTED] 2019. There is no meaningful remedy that can be granted by this hearing decision, as the error originated with the federal Social Security Administration’s computer system.

### DECISION

The issue of this hearing is moot. The Department acknowledged that the Appellant’s spouse was eligible to receive MSP-QMB benefits paid for by the State of Connecticut effective [REDACTED] 2019. However, the Department does not have the power to order the federal Social Security Administration to accept these payments.

*Eva Tar - electronic signature*  
Eva Tar  
Hearing Officer

Cc: Lindsay Vallee, DSS-Stamford  
Yecenia Acosta, DSS-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 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.