

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

██████████ 2020  
Signature Confirmation

Case # ██████████  
Client # ██████████  
Request # ██████████

**NOTICE OF DECISION**

**PARTY**

██████████  
██████████  
██████████

**PROCEDURAL BACKGROUND**

On ██████████ 2019, the Department of Social Services (the "Department") sent ██████████ (the "Appellant"), a Notice of Action ("NOA") denying her application for Qualified Medicare Beneficiaries ("QMB") benefits 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 take such action.

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 4-189 inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing. The following individuals were present at the hearing:

██████████, Appellant  
██████████ Appellant's Witness, ██████████

Kristin Haggan, Department Representative  
Sybil Hardy, Hearing Officer

### **STATEMENT OF THE ISSUE**

The issue is whether the Department's decision to deny the Appellant's medical coverage under the MSP program is correct.

### **FINDINGS OF FACT**

1. The Appellant is an [REDACTED]-year old [REDACTED] widow that lives alone in the community. (Appellant's Testimony, Exhibit 1: Application ["W-1QMB"])
2. On [REDACTED], 2019, the Department received a signed W-1QMB form from the Appellant requesting QMB services under MSP program. (Hearing Summary, Exhibit 1, Exhibit 4: Case Notes)
3. The Appellant receives a monthly gross unearned income from Social Security ("SSA") of \$2,562.50. (Hearing Summary, Exhibit 1, Exhibit 2: SOLQ-I Results Details, Exhibit 4)
4. On [REDACTED] 2019, the Federal Poverty Limit ("FPL") for a household of one was \$1,041.00. (Federal Register)
5. 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 [REDACTED]. Therefore, this decision was due not later than [REDACTED].

### **CONCLUSIONS OF LAW**

1. Section 17b-2 of the Connecticut General Statutes authorized the Commissioner of the Department of Social Services to administer 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. Federal Statutes provide for the definition of a Qualified Medicare Beneficiary as an individual:

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). [42 United States Code (U.S.C.) § 1396d(p)(1)(A)]

Whose income (as determined under section 1382(a) 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. [42 U.S.C. § 1396d(p)(1)(B)]

Uniform Policy Manual (“UPM”) § 5025.05(B)(1) pertains to the treatment of prospective income; if income is received on a monthly basis, a representative monthly amount is used as the estimate of income.

UPM § 5050.13(A)(1) provides that income from the Social Security and Veteran’s Benefits is treated as unearned income in all programs.

UPM § 5025.05(B)(1) provides that if income is received on a monthly basis, a representative monthly amount is used as the estimate of income.

**The Department correctly determined the Appellant’s monthly applied income for [REDACTED] is 2,562.50.00 (\$2,562.50, SSA).**

4. Connecticut General Statutes (“CGS”) Section 17b-256f provides in relevant part for eligibility for Medicare savings programs. 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 per cent of the federal poverty level but less than two hundred thirty-one per cent of the federal poverty level qualifying for the Specified Low-Income Medicare Beneficiary program, and (3) at or above two hundred thirty-one per cent of the federal poverty level but less than two hundred forty-six per cent of the federal poverty level qualifying for the Qualifying Individual program. The Commissioner shall not apply an asset test for eligibility under MSP. 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. The Commissioner of Social Services, pursuant to section 17b-10, may implement policies and procedures to administer the provisions of this section while in the process of adopting such policies and procedures in regulation form, provided the Commissioner prints notice of the intent to adopt the regulations on the department’s Internet web site and the eRegulations System not later than twenty days after the date of implementation. Such policies and procedures shall be valid until the time final regulations are adopted.

5. UPM Section 2540.94(A)(1) provides for Qualified Medicare Beneficiaries (“QMB”) coverage group to include 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.
  
6. UPM § 2540.94(D) provides for the income criteria under the QMB.
  1. 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 (COLA) percentage increase received by SSA and SSI recipients each January is disregarded when determining eligibility in the first three months of each calendar year;
    - b. For eligibility to exist income must be equal to or less than 100% percent of the Federal Poverty Level for the appropriate needs group size.
  2. 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.
  
7. UPM § 2015.05(A) provides that the assistance unit in AABD and MAABD consists of only one member. In these programs, each individual is a separate assistance unit.

**The Department correctly determined an assistance unit of one.**

8. UPM § 5515.05(c)(2) provides that the needs group for an MAABD unit includes the following:
  - a. The applicant or recipient and;
  - b. The spouse of the applicant or recipient when they share the same home regardless of whether one or both are applying for or receiving assistance, except in cases involving working individuals with disabilities. In these cases, the spouse (and children) are part of the needs group only in determining the cost of the individual’s premium for medical coverage. (Cross Reference: 2540.85)

**The Department correctly determined a needs group of one.**

9. UPM § P-4530.25(4) provides that in determining the eligibility for Qualified Medicare Beneficiaries (QMB-Q01) the Department compares the applied earned income and gross unearned income of the needs group to 211% of the Federal

Poverty Level. If the combined income is below the monthly income level the individual is eligible for QMB.

<u>Needs Group Size</u>	<u>Monthly Income Level</u>
1	\$2,196.51
2	\$2,972.99

**The Department correctly determined that the Appellant's household income for [REDACTED] 2019 exceeds the income limits for the QMB program for a household of one person.**

10. UPM § 2540.95(A) provides for Specified Low Income Medicare Beneficiaries ("SLMB") coverage group to include individuals who would be Qualified Medicare Beneficiaries described in § 2540.94, except that their applied income exceeds 100 percent of the Federal Poverty Level, but is less than 120 percent of the Federal Poverty Level.

11. UPM § P-4530.26(4) provides that in determining the eligibility for Specified Low Income Medicare Beneficiaries (SLMB-Q03) the Department compares the applied earned income and gross unearned income of the needs group to 231% of the Federal Poverty Level. If the combined income is below the monthly income level the individual is eligible for Q03.

<u>Needs Group Size</u>	<u>Monthly Income Level</u>
1	\$ 2,404.71
2	\$ 3,254.79

**The Department correctly determined that the Appellant's household income of \$2,562.50 for [REDACTED] 2019 exceeds the income limits for the SLMB coverage group for a household of one person.**

12. UPM § 2540.97(A) provides for Additional Low Income Medicare Beneficiaries ("ALMB") coverage group to include individual who would be Qualified Medicare Beneficiaries described in § 2540.94, except that their applied income exceeds 120 percent of the Federal Poverty Level, but is less than 135 percent of the Federal Poverty Level.

13. UPM § P-4530.27(4) provides that in determining the eligibility for Additional Low Income Medicare Beneficiaries (ALMB-Q04) the Department compares the applied earned income and gross unearned income of the needs group to 246% of the Federal Poverty Level. If the combined income is below the monthly income level the individual is eligible for Q04.

<u>Needs Group Size</u>	<u>Monthly Income Level</u>
1	\$2,560.86
2	\$3,466.14

**The Department correctly determined that the Appellant's household income of \$2,562.50 for [REDACTED] 2019 exceeds the ALMB coverage group for a household of one person.**

14. The Department correctly denied the Appellant's application for MSP benefits under the QMB program because her income exceeds the program income limits.

### **DECISION**

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



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Sybil Hardy  
Hearing Officer

Pc: Tyler Nardine, Operations Manager, DSS R.O. # 40, Norwich  
Cheryl Stuart, Operations Manager, DSS R.O. # 40, Norwich  
Kristin Haggan, Fair Hearings Liaison, DSS R.O. # 40, Norwich

### **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 06105-3725.

### **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, 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 06105-3725. 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.