

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATION AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CONNECTICUT 061105-3725

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

CL ID ██████████
Case ID # ██████████
HEARING ID #150827

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2019, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA) discontinuing his benefits under the Medicare Savings Program ("MSP"), Qualified Medicare Beneficiary Program ("QMB").

On ██████████ 2019, the Appellant requested an administrative hearing to contest the Department's decision to discontinue such benefits.

On ██████████ 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████, 2020.

On ██████████ 2020, the Appellant requested the administrative hearing be rescheduled.

On ██████████, 2020, OLCRAH issued a notice rescheduling the administrative hearing for ██████████, 2020. .

On [REDACTED], 2020, 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:

[REDACTED], the Appellant
 [REDACTED], the Appellant's spouse
 Javier Rivera, Department's representative
 Scott Zuckerman, Hearing Officer

STATEMENT OF ISSUE

The issue to be decided is whether the Department's decision to discontinue benefits under the MSP / QMB program due to excess income was correct.

FINDING OF FACTS

1. The Appellant was certified for QMB from [REDACTED] 2019 through [REDACTED], 2020. (Exhibit 3A: MA (Medicare savings Program) – Income Test [REDACTED] 2019)
2. The Appellant is married. (Hearing Record)
3. At the time of the [REDACTED] 2019 certification, the household reported the following income: \$1981.00 Social Security Benefits for the Appellant and \$333.00 monthly earnings from the Appellant's spouse from the [REDACTED]. (Appellant's Testimony, Appellant's spouse testimony)
4. In the month of [REDACTED] 2019, the Appellant received \$1981.00 Social Security ("SSA"). (Hearing Summary, Appellant's testimony and Exhibit 3A, MA – Income test, [REDACTED] 2019)
5. In the month of [REDACTED] 2019, the Appellant's spouse received \$333.00 in wages from employment with the [REDACTED]. (Hearing Summary, Appellant's testimony, Ex. 3A, MA – Income test, [REDACTED] 2019)
6. In the month of [REDACTED] 2019, the Appellant received \$1981.00 SSA benefits. (Appellant's testimony, Ex. 3B, MA – Income test, [REDACTED] 2019)
7. In the month of [REDACTED] 2019, the Appellant's spouse received \$333.00 in wages from employment with the [REDACTED]. (Appellant's testimony, Appellant's spouse testimony and Ex. 3B: MA – Income test, [REDACTED] 2019)

8. Effective [REDACTED] 2019, the Appellant's spouse receives \$1051.00 in Social Security Benefits. (Appellant's spouse testimony, and Exhibit 3B: MA – Income test, [REDACTED] 2019)
9. On [REDACTED] 2019, the Department sent a NOA discontinuing the Appellant's MSP / QMB benefits effective [REDACTED], 2019 because the monthly net income of the household was more than the limit for the program. The Appellant's coverage changed to MSP – Specified Low Income Medicare Beneficiaries program effective [REDACTED] 2019. (Exhibit 2: NOA, [REDACTED]/19)
10. 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], 2019. Therefore, this decision is due not later than [REDACTED] 2020. However, the hearing, which was originally scheduled for [REDACTED], 2020, was rescheduled for [REDACTED], 2020, at the request of the Appellant, which caused a 20 day delay. Because this 20 day delay resulted from the Appellant's request, this decision is not due until [REDACTED], 2020, and is therefore timely.

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the Medicaid program.
2. 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)]
3. Section 17b-256(f) of the Connecticut General Statutes provides for the Medicare Saving Program Regulations. 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 the Medicare Savings Program. 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 in the Connecticut Law Journal not later than twenty days after the date of implementation. Such policies and procedures shall be valid until the time final regulations are adopted.

4. Uniform Policy Manual (“UPM”) § 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.

Effective [REDACTED] 2019, the Department established the income limit under the Medicare Savings Program (“MSP”) applicable to the QMB program for a household of two as \$2,972.99 per month.

5. Uniform Policy Manual (“UPM”) 2540.95 (A) provides that the SLMB coverage group includes 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.
6. UPM P-4530.26 (4) provides that in determining 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

7. Effective [REDACTED] 2019, the FPL for an assistance unit of two people is \$1,409. The income limit for SLMB is \$3,254.79, or 231% of the FPL.
8. UPM 2540.95(D) 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 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 the income must be less than a percentage of the Federal Poverty Level for the appropriate needs group size, as described in paragraph A.
9. Section 17b-492(a) also provides that on January 1, 2012, and annually thereafter, the commissioner shall increase the income limits established under this subsection over those of the previous fiscal year to reflect the annual inflation adjustment in Social Security income, if any.
10. UPM 5050.13(A)(1) provides benefits from Social Security and Veteran's Benefits income is treated as unearned income in all programs.
11. UPM § 5515.05 (C) (2) provides in part that the needs group for a 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 applying for or receiving assistance, except in cases involving working individuals with disabilities.

The Department correctly determined that the Appellant is a needs group of two.

12. UPM 5025.05(B) provides for treatment of prospective income; if income is received on a monthly basis, a representative monthly amount is used as the estimate of income. If income is received on other than a monthly basis, the estimate of income is calculated by multiplying 4.3 by a representative weekly amount. determined as follows: if income is the same each week, the regular weekly income is the representative weekly amount;

The Department correctly determined that the Appellant's monthly gross income from SSA was \$1981.00.

The Department correctly determined that the Appellant's spouse monthly gross income from SSA was \$1051.00.

13. UPM § 5045.10(E) provides that the assistance unit's total applied income is the

sum of the unit's applied earnings, applied unearned income, and the amount deemed.

14. UPM § 5030.10 (A) provides that except for determining AABD eligibility and benefit levels for assistance units residing in long term care facilities, earned income disregards are subtracted from the assistance unit's monthly total available gross earned income. Total available gross earned income is counted in full in determining AABD eligibility and benefit levels for assistance units residing in long term care facilities.
15. UPM § 5030.10 (B) provides that the following amounts are disregarded from Income earned by groups indicated:
 - (1) \$65.00 per month plus 1/2 of the remaining income is disregarded from the earnings of:
 - a. applicants for assistance to the disabled and aged;
 - b. recipients of assistance to the aged who did not receive assistance to the disabled or blind in the month before they became 65 years of age.
16. UPM § 5020.75(C) provides that deemed income is calculated from parents and from spouses in the same way as in AABD for members of the following coverage groups:
 1. Recipients of AABD;
 2. AABD - Eligible Non-Recipients;
 3. Eligible for AABD except for a Non-Medicaid Requirement;
 4. Medically Needy Aged, Blind, and Disabled;
 5. Qualified Medicare Beneficiaries;
 6. Specified Low Income Medicare Beneficiaries;
 7. Additional Low Income Medicare Beneficiaries.

The Department correctly determined the Appellant's spouse net earned Income is \$134.00 (\$333.00 monthly earnings - \$65.00 = \$268.00 / 2 = \$134.00).

The Department correctly determined that the total household net income is \$3,166.00 (\$1981.00 Appellant's SSA + \$1051.00 spouse SSA + \$134.00 net earnings).

17. UPM § 2540.942(D)(2) provides in part that for the QMB program, the income to be compared with the Federal Poverty Level is the applied income of MAABD individuals living in the community.

The Department correctly determined the Appellant's applied income of \$3,166.00 is over the QMB income limit of \$2,972.99.

18. UPM § 2540.95 (D) (2) provides in part that for the SLMB program, the income to be compared with the Federal Poverty Level is the applied income of MAABD individuals living in the community.

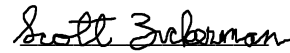
The Department correctly determined the Appellant's applied income of \$3,166.00 is within the SLMB income limit of \$3,254.79.

The Department correctly discontinued the Appellant's Medicare Savings Program QMB because the household's income exceeds the allowable income limits for that program.

The Department correctly granted the Appellant's MSP SLMB program as the household's monthly income is within program income limits.

DECISION

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


Scott Zuckerman
Hearing Officer

C: Tricia Morelli, Operations Manager, DSS, Manchester Regional Office
Javier Rivera, Fair Hearing Liaison, DSS, Manchester Regional Office

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 Administrative Hearings and Appeals, 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 the Commissioner's 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.