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

[redacted] **2020**
Signature Confirmation

[redacted]
Request # 153559

NOTICE OF DECISION
PARTY

[redacted]

PROCEDURAL BACKGROUND

[redacted] 2020, the Department of Social Services (the "Department") sent [redacted] (the "Appellant") a notice discontinuing her medical benefits under the Qualified Medicare Beneficiaries program ("QMB") due to having income above the program limit.

[redacted] 2020, the Appellant requested an administrative hearing to contest the Department's discontinuance of such benefits.

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

[redacted] 2020, 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 by telephone.

The following individuals participated in the hearing:

[redacted] Appellant
Kenneth Smiley, Department's Representative
Christopher Turner, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department was correct to discontinue the Appellant's QMB assistance due to income above the program limit.

FINDINGS OF FACT

1. [redacted] 2020, the Department completed the Appellant's QMB recertification. The notice indicated her QMB assistance was discontinued because the Appellant's household income exceeded the QMB income limit. (Exhibit 4: Notice of Action; Hearing summary)

2. The Federal Poverty Level for one effective January 1, 2020 is $1,064.00 monthly. (Exhibit 3: Income Limits and Standards Chart)

3. The QMB is a medical coverage group under the Medicare Savings Program ("MSP"). The current QMB income limit for one is $2,245.04 or less. (Exhibit 3)

4. The Appellant is [redacted] and alone comprises the assistance unit. (Record; Appellant's testimony)

5. The Appellant receives Medicare Part A and Part B coverage from the Social Security Administration. The Appellant's monthly gross Social Security is $1,437.00. (Exhibit 2: MSP Income Test, Hearing summary)

6. The Appellant is employed by [redacted] (Exhibit 1A: [redacted] Appellant's testimony)

7. The Department determined the Appellant's net income equaled $2,377.35 ($940.35 earnings + $1,437.00 SSA). (Exhibit 2: Net Income Test Result)

8. The issuance of this decision is timely under Connecticut General Statutes 17b-61(a), which requires that a decision be rendered within 90 days of the request for an administrative hearing. The Appellant requested an administrative hearing on [redacted] 2020, with this decision due no later than [redacted] 2020. (Record)

CONCLUSIONS OF LAW

1. Connecticut General Statutes ("Conn. Gen. Stat.") § 17b-2 provides 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)

Conn. Gen. Stat. § 17b-260 provides for the 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

2. “The department’s Uniform Policy Manual (“UPM”) is the equivalent of 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 § 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. (B) An eligible spouse in the home applies for and receives assistance as a separate assistance unit. (C) Any other member of the household who meets the eligibility requirements for the program is also a separate assistance unit of one.

   UPM § 5515.05(C)(2) provides 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 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 the Appellant is an assistance unit of one.

4. UPM § 2540.94 (A) provides for the 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 Department correctly determined the Appellant is a recipient of Medicare Part A and B based on age.

5. UPM § 2540.94 (D) 1. provides 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.

   Conn. Gen. Stat. § 17b-256(f) provides 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 of the federal poverty level but less than two hundred forty-six percent 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.

   The MSP income limit for an assistance unit of one is $2,245.04 ($1.064.00 * 2.11) monthly.

6. UPM § 5005 (A) provides in consideration of income, the Department counts the assistance unit's available income, except to the extent that it is specifically excluded. Income is considered available if it is: 1. received directly by the assistance unit; or 2. received by someone else on behalf of the assistance unit and the unit fails to prove that it is inaccessible; or 3. deemed by the Department to benefit the assistance unit.

UPM § 5005 (B) provides the Department does not count income which it considers to be inaccessible to the assistance unit.

UPM § 5005 (D) provides the Department uses the assistance unit's applied income to determine income eligibility and to calculate the amount of benefits.

The Department correctly determined the Appellant's income is received directly by the assistance unit and otherwise countable in full with regards to the eligibility determination.

7. UPM 5025.05 (B) provides for the prospective budgeting system. 1. If income is received on a monthly basis, a representative monthly amount is used as the estimate of income.

   UPM 5025.05 (B) 2. provides 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 that is determined as follows: a. if income is the same each week, the regular weekly income is the representative weekly amount; b. if income varies from week to week, a representative period of at least four consecutive weeks is averaged to determine the representative weekly amount. d. if income is received on other than a weekly or monthly basis, the income is converted to a representative weekly amount by dividing the income by the number of weeks covered.

   The Appellant's wages for [redacted] were calculated as follows: $898.49 on [redacted]20 and $911.46 on [redacted]20 for combined total of $1,809.95. $1,809.95/2 = $904.98. $904.98 * 2.15 = $1,945.70.

   The Appellant's wages for [redacted] are calculated as follows: 19.50 average hours per week or 83.85 hours per month (19.50 * 4.3). 83.85 hours per month * $11.25 per hour = $943.31 monthly.

   The Appellant's total combined monthly earned income equals $2,889.01 ($1,945.70 + $943.31).

8. 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 earnings for aged and formula.

   UPM 5030.10 (B) provides for the amount of the disregard. The following amounts are disregarded from income earned by the 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.

The Appellant's net earned income is calculated as follows: $2,889.01 - $65.00 = $2,824.01. $2,824.01/2 = $1,412.00.

9. UPM § 5050.13 (A) provides for the treatment of Social Security and Veterans' Benefits. 1. Income from these sources is treated as unearned income in all programs.

The Appellant's monthly SSA is $1,437.00.

The Appellant's total monthly net earned income equals $1,412.00.

The Appellant's net income equals $2,849.00 ($1,437.00 + $1,412.00).

The Appellant's net income of $2,849.00 exceeds the income limit of $2,245.04 for MSP coverage.

The Appellant's applied income of $2,849.00 is over the income guidelines for ALMB coverage ($2,617.44 to $2,808.96).

DISCUSSION

The Department's determination of the Appellant's income of $2,377.35 did not reflect the Appellant's wages from an undisclosed second job. This second income not previously counted leaves the Appellant over the program limit for any type of MSP coverage. As a result, the eligibility determination to discontinue coverage for MSP is correct.

DECISION

The Appellant's appeal is denied.

Christopher Turner
Hearing Officer

Cc: Tonya Cook-Beckford, Operations Manager Willimantic
Kenneth Smiley, Fair Hearings Liaison Willimantic

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 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 her 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.