

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 ID # ██████████
Client ID # ██████████
Request # 157785

NOTICE OF DECISION
PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2020, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a notice of action that indicated the Appellant's Medicaid for the Employed Disabled ("S05") premium was recalculated effective ██████████ 2020, due to the unemployment benefits.

On ██████████ 2020, the Appellant requested an administrative hearing to appeal the Department's decision.

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

On ██████████, 2020, in accordance with sections 17b-60, 17b-61, and 4-176e to 4-184, inclusive, of the Connecticut General Statutes, OLCRAH held a telephonic administrative hearing.

The following individuals participated in the hearing:

██████████, Appellant
Ferris Clare, Department's Representative
Swati Sehgal, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly determined the Appellant is obligated to pay her S05 premium as calculated by the Department.

FINDINGS OF FACT

1. On [REDACTED] 2020, the Appellant contacted the Department and reported a change in her income. (Hearing Summary, Appellant's Testimony)
2. The Appellant reported her employment as [REDACTED] ended as of [REDACTED], 2020, and in [REDACTED] 2020, she started to receive \$798.00 (\$198.00, Unemployment Benefit + \$600.00 Federal Pandemic Unemployment Benefit) a week in Unemployment Benefits. (Appellant's Testimony, Hearing summary)
3. The Appellant also receives \$919.00 a month in Social Security Disability Income ("SSDI"). (Appellant's Testimony)
4. On [REDACTED] 2020, the Department calculated the Appellant's total Unemployment Income to \$3431.40 monthly (\$798.00 a week x 4.3). (Exhibit 1:NOA dated [REDACTED]/20, Hearing summary)
5. On [REDACTED], 2020, The Department determined the Appellant's total monthly income equals 4682.90 (\$3431.40; Unemployment benefits+\$919.00; SSDI+\$332.50 income from dog sitting). (Exhibit 1, Hearing Summary)
6. On [REDACTED] 2020, the Department determined that the Appellant's monthly premium charges as \$255.49 a month. (Exhibit 1and Hearing Summary)
7. On [REDACTED] 2020, the Appellant requested the Administrative hearing. (Exhibit A: Hearing Request)
8. On [REDACTED] 2, 2020, the Department removed the Appellant's self-employment income and calculated the Appellant's total income equals \$4350.40 (3431.40; Unemployment Benefit+\$919; SSDI).
9. On [REDACTED] 2020, the Department recalculated the Appellant's Monthly premium charges as \$222.24. (Exhibit 2: NOA, [REDACTED]/20)
10. The Federal Poverty Level used by the Department in its S05 premium calculation was \$2,128.00 monthly. (Record; Hearing summary)
11. On [REDACTED] 2020, the Department issued a Notice to the Appellant informing her of a change in monthly premium. (Exhibit 2)

12. 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 [REDACTED], 2020, with this decision due no later than [REDACTED], 2020. (Hearing Record)

CONCLUSIONS OF LAW

1. Connecticut General Statutes ("Conn. Gen. Stat.") § 17b-2 provides that 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.
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. Conn. Gen. Stat. § 17b-597 provides for working persons with disabilities program. (a) The Department of Social Services shall establish and implement a working persons with disabilities program to provide medical assistance as authorized under 42 USC 1396a(a)(10)(A)(ii), as amended from time to time, to persons who are disabled and regularly employed. (b) The Commissioner of Social Services shall amend the Medicaid state plan to allow persons specified in subsection (a) of this section to qualify for medical assistance. The amendment shall include the following requirements: (1) That the person be engaged in a substantial and reasonable work effort as determined by the commissioner and as permitted by federal law and have an annual adjusted gross income, as defined in Section 62 of the Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as amended from time to time, of no more than seventy-five thousand dollars per year; (2) a disregard of all countable income up to two hundred per cent of the federal poverty level; (3) for an unmarried person, an asset limit of ten thousand dollars, and for a married couple, an asset limit of fifteen thousand dollars; (4) a disregard of any retirement and medical savings accounts established pursuant to 26 USC 220 and held by either the person or the person's spouse; (5) a disregard of any moneys in accounts designated by the person or the person's spouse for the purpose of purchasing goods or services that will increase the employability of such person, subject to approval by the commissioner; (6) a disregard of spousal income solely for purposes of determination of eligibility; and (7) a contribution of any countable income of the person or the person's spouse which exceeds two hundred per cent of the federal poverty level, as adjusted for the appropriate family size, equal to ten per cent of the excess minus any premiums paid from income for health insurance by any family member, but which does not exceed the maximum contribution allowable under Section 201(a)(3) of Public Law 106-170, as amended from time to time.

4. UPM § 2540.85 provides there are two distinct groups of employed individuals between the ages of 18 and 64 inclusive who have a medically certified disability or blindness and who qualify for Medicaid as working individuals with disabilities. These groups are the Basic Insurance Group and the Medically Improved Group. There is a third group of employed individuals consisting of persons at least 18 years of age who have a medically certified disability or blindness who also qualify for Medicaid as working individuals with disabilities. This is the Balanced Budget Act Group. Persons in this third group maybe age 65 or older.
5. UPM § 2540.85(A) provides for the Basic Insurance Group. An individual in this group, which is authorized under the Ticket to Work and Work Incentives Improvement Act of 1999 (TWWIIA), is subject to the conditions described below. 1. An individual in this group must be engaged in a substantial and reasonable work effort to meet the employment criterion. (a) Such effort consists of an activity for which the individual receives cash remuneration and receives pay stubs from his or her employer. (b) If the individual is self-employed, he or she must have established an account through the Social Security Administration and must make regular payments based on earnings as required by the Federal Insurance Contributions Act. (c) that an individual who meets the employment criterion but then loses employment through no fault of his or her own, for reasons such as a temporary health problem or involuntary termination, continues to meet the employment criterion for up to one year from the date of the loss of employment. The individual must maintain a connection to the labor market by either intending to return to work as soon as the health problem is resolved or by making a bona fide effort to seek employment upon an involuntary termination.

The Department correctly determined the Appellant is a single individual eligible for the Basic Insurance Group as she at least 18 years of age and younger than 65, has substantial and reasonable work effort, receives SSDI or SSI.

6. UPM § 5025.05 (B) (2) provides that 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: 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 Department determined unemployment benefits for the Appellant as follows: $\$798 \times 4.3 = \3431.40 .

7. UPM § 2540.85(A)(4) provides that an individual may be required to pay the Department a monthly premium for medical coverage if the gross monthly counted income of the individual and spouse (minus Impairment-Related Work Expenses described at UPM 5035.10 C) exceeds 200% of the federal poverty level (FPL) for the appropriate family size, including dependent children living in the home.

8. UPM § 3545.15(A)(1) provides individuals receiving Medicaid as Working Individuals with Disabilities may be required to pay the Department a premium for Medicaid coverage if the individual's gross income, plus the gross income of his or her spouse, minus Impairment-Related Work Expenses, exceeds 200 percent of the federal poverty level for the appropriate family size.
9. UPM § 3545.15(A)(2) provides the amount of the individual's monthly Medicaid premium is equal to 10% of the excess monthly income described above, minus the amount of any monthly payments for health insurance made by the individual or spouse for any family member.
10. UPM § 5035.10 (C) provides for Impairment Related Work Expenses.
 1. Certain work expenses which are related to enabling the individuals to be employed are deducted from earned income in determining eligibility and calculating benefits for: a. recipients of assistance to the disabled; and b. recipients of assistance to the aged who received assistance to the disabled in the month before they became 65 years of age.
 2. Impairment related work expenses are not used to determine the initial eligibility of an applicant for assistance based upon disability.
 3. Impairment-related work expenses include but are not limited to, the following:
 - a. attendant services including help with personal or employment functions;
 - f. non-medical equipment which can be associated with enabling the individual to be employed;
 - g. drugs and medical services directly related to reducing, controlling or eliminating an impairment or its symptoms;
 - h. all other miscellaneous expenses not cited above but which can be associated with the individual's disability and with enabling the individual to be employed including transportation, medical supplies, vehicular medications, etc.

The Department correctly excluded Impairment Related Work Expenses as none were declared by the Appellant.

The Department correctly determined the Appellant's S05 premium was \$222.40 per month. \$4350.40 (\$3431.40 Unemployment Benefit + \$919.00 SSDI) - \$2,128.00 FPL = \$2222.40. $\$2222.40 \times 0.10$ (10%) = \$222.24.

The Department correctly determined the Appellant's monthly S05 premium of \$222.24.

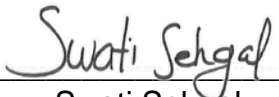
DISCUSSION

The Appellant believes that her unemployment benefit amount should not be counted to calculate her S05 premium because it includes \$600.00 of Federal Pandemic Unemployment Benefit. She further stated that there is no option for her to decline this Pandemic Unemployment benefits and as a result, she is losing her medical benefits. The Department explained to the Appellant that she is actively

receiving medical benefits under Husky C-working Disable. However, she is now responsible to pay a premium of \$222.24 a month for such benefits. The Appellant was informed that she should contact the Department as soon as her Federal Pandemic Unemployment benefits end so the Department could recalculate her monthly premium for S05.

DECISION

The Appellant's appeal is denied.


Swati Sehgal
Hearing Officer

Cc: Rachel Anderson, Operations Manager, DSS, R.O. #20, New Haven
Cheryl Stuart, Operations Manager, DSS, R.O. #20, New Haven
Lisa Wells, Operations Manager, DSS, R.O. #20, New Haven
Ferris Clare, Fair Hearing Liaison, DSS, R.O. #20, New Haven

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.