

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

██████████ 2021
Signature Confirmation

Client ID # ██████████
Case # ██████████
Hearing Request # 169941

NOTICE OF DECISION

PARTY

██████████
██████████
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PROCEDURAL BACKGROUND

On ██████████, 2020, the Department of Social Services (the “Department”) sent a notice to ██████████ (the “Appellant”) advising him that it was denying his application for the Medicare Savings Program Additional Low Income Beneficiaries benefits because his household’s income exceeded the limit.

On ██████████, 2020, the Appellant requested an administrative hearing because he disagreed with the Department’s decision to deny such benefits.

On, ██████████ 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████, 2021.

On ██████████, 2021, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing by telephone. The following individuals participated in the hearing:

██████████, the Appellant,
██████████, Appellant’s witness
Althea Forbes-Francis, Department’s Representative
Marci Ostroski, Hearing Officer

The Hearing Record was reopened for the submission of additional information from the Department. An exhibit was received and the record closed on [REDACTED] 2021.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Appellant's application for the Additional Low-Income Beneficiary benefits through the Medicare Savings Program was correct.

FINDINGS OF FACT

1. On [REDACTED] 2020, the Appellant applied for the Medicare Savings Program through an online application form. (Hearing summary; Ex. 1: Medicare Savings Programs Application)
2. The Appellant applied for himself as a single individual, a household of one. The Appellant is [REDACTED] years of age (D.O.B. [REDACTED]/49). (Department's summary, Ex. 1: Medicare Savings Programs Application)
3. The Appellant receives Medicare Part A and Part B coverage from the Social Security Administration. (Ex. 2: BENDEX Screen Print)
4. The Appellant received a gross monthly benefit of \$2482.60 from the Social Security Administration ("SSA") for the 2020 calendar year. (Ex.3: MSP Income Test; Appellant's testimony)
5. The Appellant receives a gross monthly pension of \$213.88 from [REDACTED] [REDACTED]. (Hearing Summary; Ex. 1: Medicare Savings Programs Application; Appellant's testimony)
6. The Appellant's total monthly gross income in the 2020 calendar year was \$2696.48 (\$2482.60 + \$213.88 = \$2696.48). (Facts 4 & 5)
7. On [REDACTED], 2020, the Department processed the Appellant's MSP application. (Ex. 4: Case Notes)
8. On [REDACTED], 2020, the Department issued a Notice of Action advising the Appellant that he was ineligible for Additional Low-Income Benefits through the Medicare Savings Program because his household's income exceeded the limit for the program. (Ex. 5: Notice of Action, [REDACTED]/20)
9. The Federal Poverty Level for a household of one effective January 1, 2020, is \$1,064.00 monthly. (Federal Register)

10. 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. This decision, therefore, was due no later than [REDACTED] 2021, and is therefore timely. (Hearing Record)

CONCLUSIONS OF LAW

1. Section 17b-2 Section 17b-2 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the Medicaid program pursuant to Title XIX of the Social Security Act.
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. "The Department's Uniform Policy Manual ("UPM") is the equivalent of a state regulation and, as such, carries the force of law." *Bucchere v Rowe*; 43 Conn Supp. 175 178 (194) (citing Conn. Gen. Stat. § 17b-10; *Richard V. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A.2d712 (1990)).
4. Uniform Policy Manual ("UPM") § 2540.94(A)(1)(a) provides for Qualified Medicare Beneficiaries ("QMB") coverage group to include individuals who are entitled to hospital insurance benefits under part A of Title XVIII of the Social Security act.
5. UPM § 2540.97(D)(1)(a) provides in part that the Department uses AABD income criteria (Cross Reference 5000) to determine eligibility for the additional low income Medicare beneficiaries except that for eligibility to exist the income must less than a percentage of the Federal Poverty Level for the appropriate needs group size, as described in paragraph A.
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. (D) The Department uses the assistance unit's applied income to determine income eligibility and to calculate the amount of benefits.

7. UPM § 5050.13(A)(1) provides that income from the Social Security Administration is treated as unearned income in all programs.
8. The Department correctly determined that the Appellant's SSA income is counted as unearned income.
9. UPM § 5050.09(A) provides that payments received by the assistance unit from annuity plans, pensions and trusts are considered unearned income.
10. The Department correctly determined that the Appellant's pension is counted as unearned income.
11. The Department correctly calculated the Appellant's monthly gross income of \$2696.48 in 2020.
12. Section 17b-256(f) of the Connecticut General Statutes provides for the Medicare Savings 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 percent 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.
13. Two hundred eleven percent of the federal poverty level for a household of one during the 2020 calendar year is \$2245.04 ($\$1064.00 * 2.11 = \2245.04).
14. The Department correctly determined that the Appellant's monthly gross income of \$2696.48 exceeded the Qualified Medicare Beneficiary Program ("QMB") income limit of \$2245.04.

15. Two hundred thirty-one percent of the federal poverty level for a household of one during the 2020 calendar year is \$2457.84 ($\$1064.00 * 2.31 = \2457.84).
16. The Department correctly determined that the Appellant's monthly gross income of \$2696.48 exceeded the Specified Low-Income Medicare Beneficiary ("SLMB") income limit of \$2457.84.
17. Two hundred forty-six percent of the federal poverty level for a household of one during the 2020 calendar year is \$2617.44 ($\$1064.00 * 2.46 = \2617.44).
18. The Department correctly determined that the Appellant's monthly gross income of \$2696.48 exceeded the Qualifying Individual Program otherwise referred to as the Additional Low-Income Medicare Beneficiary Program (ALMB") income limit of \$2617.44.
19. The Department was correct when it denied the Appellant's MSP application because his income exceeded the allowable limits for all programs.

DISCUSSION

The Appellant and his witness testified to the Appellant's high prescription drug costs and household expenses. Regulations do not provide, however, for deductions of the Appellant's income based on medical need. The income guidelines for the Medicare Savings programs compare the Appellant's gross monthly income to a percentage of the federal poverty level and the Appellant's income exceeds program limits.

DECISION

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

Marci Ostroski
Marci Ostroski
Hearing Officer

CC: Patricia Ostroski, Social Service Operations Manager, New Britain
Althea Forbes Francis, Hearing Liaison, New Britain

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, 165 Capitol Avenue, 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.