

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

██████████ 2022
Signature Confirmation

Client ID # ██████████
Request # 183294

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████ 2021, the Department of Social Services (the “Department”) issued a Notice of Action (“NOA”) to ██████████ (the “Appellant”) discontinuing his *MSP – Qualified Medicare Beneficiaries* (“QMB”) medical assistance effective ██████████ 2021. The NOA stated the Appellant was not eligible because the monthly net income of his household was more than the limit for the program.

On ██████████ ██████████ 2021, the Appellant requested a fair hearing to appeal the discontinuance of his QMB benefits.

On ██████████ 2021, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a Notice scheduling the administrative hearing for ██████████ 2021. The hearing was scheduled to be held telephonically, at the Appellant’s request, due to the COVID-19 pandemic.

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. The following individuals were present at the hearing:

██████████ Appellant
Christopher Filek, Department’s Hearing Liaison
James Hinckley, Hearing Officer

STATEMENT OF THE ISSUE

Whether the Department was correct when it discontinued the Appellant's QMB medical coverage effective [REDACTED] 2021 because his household's income exceeded the limit for the program.

FINDINGS OF FACT

1. The Appellant is married and resides with his wife. He has been married for 31 years. (Appellant's testimony, Hearing Record)
2. The Appellant is 60 years old, disabled, and eligible for Medicare. (Hearing Record)
3. The Appellant's wife is 60 years old, not disabled, and not eligible for Medicare. (Appellant's testimony)
4. The Appellant receives income from Social Security Disability Insurance ("SSDI"), \$2,245.00 per month, and from long term disability payments, \$231.00 per month. (Hearing Record)
5. The Appellant's wife has no income. (Appellant's testimony)
6. The Appellant was previously found eligible for QMB by the Department. (Hearing Record)
7. When the Department made its initial determination of eligibility for the Appellant, it was erroneously based on the Appellant having SSDI income only. (Hearing Record)
8. On [REDACTED] 2021, the Department processed a renewal document that the Appellant submitted on [REDACTED] 2016 (more than 4 years earlier). The Department corrected the Appellant's record by reflecting the \$231.00 per month long term disability income that he reported on the form, in addition to the SSDI income that was already being reflected. (Ex. 1: Medicare Savings Program Renewal (QMB), Ex. 2: Case Notes)
9. The Appellant reported on his 2016 renewal form that was processed on [REDACTED] 2021, that his marital status was "married". (Ex. 1)
10. The Case Note from [REDACTED] 2021 indicates that the Appellant's eligibility was determined using the "guideline for a single individual income". (Ex. 2)
11. On [REDACTED] 2021, the Department issued an NOA to the Appellant discontinuing his *MSP – Qualified Medicare Beneficiaries* coverage effective [REDACTED] 2021, because his income, which consisted of SSDI \$2,245.00 monthly and Pension \$231.00 monthly, was more than the limit for the program. (Ex. 3: NOA)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes (“Conn. Gen. Stat.”) authorizes the Commissioner to administer the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Section 1396a(a)(10)(E)(i) of Title 42 of the United States Code provides that a State plan for medical assistance must provide “for making medical assistance available for medicare cost-sharing (as defined in section 1396d(p)(3) of this title) for qualified medicare beneficiaries described in section 1396d(p)(1) of this title;”
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, 177 (1994) (citing Conn. Gen. Stat. 17-3f(c) [now 17b-10]; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A. 2d 712(1990)
4. UPM § 5515.05(C)(2) provides as follows:

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).
- 5. The Appellant’s needs group included himself and his spouse. The Appellant and his spouse shared the same home. She was included in his needs group even though she was not an applicant or recipient of assistance.**
6. “Eligibility for Medicare savings programs. 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....” Conn. Gen. Stat. § 17b-256f

7. **The income limit for QMB for a couple, equal to 211% of the federal poverty level, was \$3,064.**
8. **The Appellant’s income of \$2,476.00 did not exceed the limit for the QMB program for a needs group of two persons.**
9. **The Department was incorrect when it discontinued the Appellant’s *MSP – Qualified Medicare Beneficiaries* medical benefits effective [REDACTED] 2021 due to income that exceeded the limit for the program.**

DECISION

The Appellant’s appeal is **GRANTED**.

ORDER

1. The Department must reinstate the Appellant’s eligibility for the *MSP – Qualified Medicare Beneficiaries* program.
2. The Department must send, directly to the undersigned hearing officer, proof of compliance with the order in (1) above, by no later than [REDACTED] 2022.

James Hinckley

James Hinckley
Hearing Officer

cc: Brian Sexton
Christopher Filek

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, 25 Sigourney Street, Hartford, CT 06106-5033.

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, 25 Sigourney Street, Hartford, CT 06106. 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.