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

[redacted] **2022**
Signature Confirmation

Client ID # [redacted]
Request # 186672

NOTICE OF DECISION

PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted] 2021, the Department of Social Services (the "Department") issued a Notice of Action ("NOA") to [redacted] (the "Appellant") denying his application for the *MSP – Qualified Medicare Beneficiaries* ("QMB") medical assistance program and giving the reason for the denial that the Appellant did not meet program requirements.

On [redacted] 2021, the Appellant requested a fair hearing to appeal the denial of his application for QMB benefits.

On [redacted] 2021, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice scheduling the administrative hearing for [redacted] 2022. The hearing was scheduled to be held telephonically, at the Appellant's request, due to the COVID-19 pandemic.

On [redacted] 2022, 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:

[redacted] Appellant
[redacted] Appellant's daughter
Celia Nguyen, Interpreter, ITI
Christopher Filek, Department's Hearing Liaison
James Hinckley, Hearing Officer

On [redacted] 2022, the Department submitted additional evidence which was accepted for the hearing record.

STATEMENT OF THE ISSUE

Whether the Department was correct when it denied the Appellant's application for QMB medical assistance due to not meeting the requirements for the program.

FINDINGS OF FACT

1. The Appellant is a 74-year-old man. (Hearing Record)

2. The Appellant has income of $762.84 per month from Supplemental Security Income ("SSI"). (Hearing Record)

3. The Appellant has medical coverage from Medicare Part B. (Hearing Record)

4. The Appellant is eligible for medical coverage from Medicare Part A but does not have the coverage; he is unable to afford the premium. (Appellant's testimony)

5. The Appellant's Medicare Part B coverage will end shortly. The Appellant's Part B premium was previously paid by the state in which he used to live. Since he is no longer a resident of the state, the state will stop paying his premium for him. (Appellant's testimony)

6. On [redacted] 2021, the Appellant applied to the Department for the QMB program. (Hearing Record)

7. Recipients of the QMB program have their Medicare Part A and Medicare Part B premiums paid for them. (Hearing Record)

8. On [redacted] 2021, the Department issued an NOA to the Appellant denying his application for *MSP – Qualified Medicare Beneficiaries* coverage because he did not meet the requirements for the program. (Ex. 3: NOA)

9. The Department noted that the reason the Appellant's application had been denied was that he did not have Medicare Part A coverage in place. (Ex. 1: Case Notes)

10. The Department informed the Appellant that he needed to visit the Social Security office to enroll in Medicare Part A; he was told that after he had enrolled in Medicare Part A he could reapply to the Department for QMB. (Ex. 1)

11. On [redacted] 2022, the Department issued an NOA to the Appellant approving his application for *MSP – Qualified Medicare Beneficiaries* coverage effective [redacted] 2021. (Ex. 5: 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 § 2540.94 discusses the Qualified Medicare Beneficiaries program

5. UPM § 2540.94(A)(1) provides as follows:

   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.

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 Appellant had income from SSI only. His income and (because he met the asset requirements for SSI) assets were, therefore, within the limits for the QMB program.**

8. **The Appellant, though he was not enrolled in Medicare Part A at the time he filed his application for QMB, was *entitled* to Medicare Part A pursuant to the relevant QMB eligibility requirement.**

9. **The action taken by the Department on [redacted] 2021 to deny the Appellant's application was caused by a computer programming or coding error.**

10. **The Department rectified the incorrect denial when it granted QMB benefits for the Appellant on [redacted] 2022.**

11. "An individual qualifies for benefits under this coverage group starting the first day of the calendar month following the month in which the individual is determined eligible and continuing for every month thereafter in which the individual meets the criteria described in paragraph A." UPM § 2540.94(C)

12. **The Appellant applied for QMB on [redacted] 2021. When the Department approved the Appellant's application on [redacted] 2022, it correctly determined that the effective date was [redacted] 2021, because [redacted] 2021 was the first day of the calendar month following the month the Appellant was determined eligible for the program.**

13. UPM § 1570.05(A) provides that "The purpose of the Fair Hearing process is to allow the requester of the Fair hearing to present his or her case to an impartial hearing officer if the requester claims that the Department has either acted erroneously or has failed to take a necessary action within a reasonable period of time."

14. UPM § 1570.25(C)(2)(k) provides that "The Fair Hearing officer renders a Fair Hearing decision in the name of the Department, in accordance with the criteria in this chapter, to resolve the dispute."

15. **The Appellant requested the hearing in order to appeal the Department's [redacted] 2021 denial of his [redacted] 2021 application for QMB. On [redacted] 2022, the Department approved the [redacted] 2021 application. Since the Appellant's application has been granted as of the earliest possible effective date, the issue of the hearing is no longer in dispute.**

16. "When the actions of the parties themselves cause a settling of their differences, a case becomes moot." McDonnel v. Maher, 3 Conn. App. 1985), citing, Heitmuller v. Stokes, 256 U.S. 359, 362-3, 41 S. Ct. 522, 523-24, 65 L.Ed. 990 (1921).

17. **Subsequent to the Department's approval of the Appellant's application there is no practical relief that can be afforded through an administrative hearing.**

DECISION

The Appellant's appeal is **dismissed as moot**.

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.