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

[redacted] **2022**
Signature Confirmation

Case ID # [redacted]
Client ID # [redacted]
Request # 188364

NOTICE OF DECISION
PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted] 2021, the Department of Social Services (the "Department") sent [redacted] (the "Appellant") a notice denying his application for medical benefits under the Qualified Medicare Beneficiaries program ("QMB") due to not meeting the programs eligibility requirements.

On [redacted] 2022, the Appellant requested an administrative hearing to contest the Department's denial of such benefits.

On [redacted] 2022, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for [redacted] 2022.

On [redacted] 2022, 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's Counsel
Ni'ta Freeman, Department's Representative
Christopher Turner, Hearing Officer

Two additional decisions will be issued concerning the Department's denial of the Appellant's cash and medical applications.

STATEMENT OF THE ISSUE

The issue is whether the Department was correct to deny the Appellant's QMB application due to not meeting the program's eligibility requirements.

FINDINGS OF FACT

1. On [redacted] 2021, the Department received an application for cash and medical assistance from the Appellant's counsel. The Appellant is [redacted] years old ([redacted]) and resides in a licensed boarding home. (Exhibit 1: Application)

2. On [redacted] 2021, the Department issued a notice of action to the Appellant denying his request for QMB due to not meeting the program requirements. (Exhibit 2: Notice)

3. The Appellant's monthly Social Security Income ("SSA") for 2021 is $2,401.30 and is a recipient of Medicare Part A and Part B. The Appellant has no other source of income. (Exhibit 3: SSA printout; Record; Counsel's testimony)

4. One hundred percent of the Federal Poverty Level ("FPL") for 2021 is $1,073.33 ($12,880/12 months) rounded up to $1,074.00 for one person. (Record)

5. The Qualified Medicare Beneficiaries ("QMB") is a medical coverage group under the Medicare Savings Program ("MSP") that pays for Medicare Part A and B premiums, coinsurance and deductible amounts for services covered under Medicare. The current QMB income limit for one is $2,265.00 or less. (Department's testimony; Record)

6. The issuance of this decision is timely under Connecticut General Statutes ("Conn. Gen. Stat.") 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] 2022, with this decision due no later than [redacted] 2022. (Record)

CONCLUSIONS OF LAW

1. 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.

The Department has the authority to administer and determine eligibility for the Medicaid program.

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. 42 United States Code § 1396d(p) (1) provides the term "qualified medicare beneficiary" means an individual – (A) 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 1395i–2a of this title. (B) whose income (as determined under section 1382a 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).

   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

paragraphs 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.

The Department correctly determined the Appellant is a recipient of Medicare Part A and B based on age.

5. 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 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.

The Q01/MSP income limit for an assistance unit of one is $2,265.00 ($1,073.33 * 2.11) monthly.

The Q03/SLMP income limit for an assistance unit of one is $2,480.00 ($1,073.33 * 2.31) 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 § 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 Department correctly determined the Appellant's 2021 SSA of $2,401.30 is received directly by the assistance unit and is countable in full with regards to the eligibility determination.

The Appellant's income of $2,401.30 exceeds the income limit of $2,265.00 for Q01/MSP coverage but is below the income limit of $2,480.00 for Q03/SLMB coverage.

7. UPM § 2540.95 provides for the Specified Low Income Medicare Beneficiaries and maintains (A) This group includes individuals who would be Qualified Medicare Beneficiaries except that their applied income exceeds the program limit.

   UPM § 2540.95 (B) provides an individual who qualifies for this coverage group receives payment of one's Medicare Part B premium.

   The Appellant is eligible for the Q03/SLMB program that provides reimbursement of an individual's Medicare Part B premium.

DECISION

The Appellant's appeal is denied, but the Department is encouraged to grant the Appellant SLMB coverage with an [redacted] 2021, application date.

Christopher Turner
Hearing Officer

Cc: Rachel Anderson, Operations Manager New Haven
Mathew Kalarickal, Operations Manager New Haven
Lisa Wells, Operations Manager New Haven
Ni'ta Freeman, DSS 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 the 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 the 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, 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 to 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.