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]
Case Id. # [REDACTED]
Hearing Id. # 195521

NOTICE OF DECISION

PARTY

[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED], 2022, the Department of Social Services (the "Department") sent [REDACTED] (the "Appellant") a Notice of Action ("NOA") stating that her Medicaid for the Employed Disabled ("MED") has a premium amount of $202.55 effective [REDACTED] 2022.

On [REDACTED], 2022, the Appellant requested an administrative hearing to contest the Department's action.

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, 17b-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing by phone. The following individuals were present at the hearing:

[REDACTED], Appellant
Marybeth Mark, Department's Representative
Scott Zuckerman, Hearing Officer

STATEMENTS OF THE ISSUE

The issue to be decided is whether the Department correctly determined the Appellant must pay a monthly premium of $202.55 for her Medicaid for the Employed Disabled as calculated by the Department.

FINDINGS OF FACT

1. The Appellant is a recipient of MED. (Hearing Record)

2. On [redacted], 2022, the Department received the Appellant's online renewal form. The Appellant reported employment at [redacted]. (Exhibit 1: Renewal form, [redacted], 2022)

3. On [redacted] 2022, the Department processed the Appellant's renewal and used the Appellant's two most recent biweekly wages stubs as reported by the work number from [redacted] company. The wages were as follows: [redacted], 2022, $2,115.83 + [redacted] 2022, $1,875.37. The projected monthly gross wages of $4290.54. (Hearing Summary and Exhibit 2: The work number employment and wage history)

4. Based on the Appellant's wages the Department determined the Appellant must pay a monthly premium of $202.55. (Hearing Summary)

5. On [redacted], 2022, the Department sent the Appellant a Notice of Action. The notice stated the Appellant was eligible to continue Husky C – working disabled Medicaid benefits through [redacted], 2023, and that her monthly premium amount is $202.55. (Exhibit 5: NOA, [redacted], 2022)

6. On [redacted] [redacted] 2022, the Appellant requested an administrative hearing. (Hearing Record)

7. On [redacted], 2022, the Department reviewed work number wages in review of the hearing and projected monthly gross wages based on the following wages: [redacted], 2022, $1875.37 and [redacted], 2022, $1,974.05. The Department determined a monthly average of $4138.13. (Hearing Summary and Exhibit 2)

8. On [redacted] 2022, the Department sent the Appellant a Notice of Action. The notice stated that based on the review the new MED premium amount is $187.31 beginning [redacted] 2022. (Exhibit 5: NOA [redacted], 2022)

9. The issuance of this decision is timely under Connecticut General Statutes 17b-61(a), 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], 2022. Therefore, this decision is due not later than [redacted] 2022, and is therefore timely. (Hearing Record)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the Medicaid program.

2. "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." Conn Gen. Stat. § 17b – 597(A)

3. State statute provides as follows:

   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.

Conn. Gen. Stat. § 17b-597(b)

4. “The Department’s uniform policy manual is the equivalent of a 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 Maintenance, 214 Conn. 601, 573 A.2d (1990)).

5. Section 2540.85 of the Uniform Policy Manual provides as follows:

   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 may be age 65 or older.

6. Department policy provides for Working Individuals with Disabilities Balanced Budget Act Group as follows:

   1. An individual in this group, which is authorized under the Balanced Budget Act of 1997 (BBA), is subject to the same conditions described in section 2540.85 A concerning employment status, income eligibility tests, asset eligibility tests and computation of premiums.

   2. An individual in this group who is age 65 or older is eligible for Medicaid as long as he or she meets all the eligibility requirements of section 2540.85 A and has a medically certified disability or blindness.

   UPM § 2540.85(C)

7. Department policy provides for payment of a monthly premium for medical coverage as follows:

   The 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.

   a. The amount of the premium is equal to 10% of this excess, minus the monthly amount of any payments for health insurance made by the individual or spouse for any family member.

   b. For an individual described in this paragraph whose net family income is greater than 250% of the FPL but does not exceed 450% of the FPL

for the appropriate family size, the premium for Medicaid coverage cannot exceed 7.5% of the individual's net family income.

c. Net family income consists of the applied monthly income of the individual plus that of his or her spouse.

(1) Applied monthly income of the individual is described in
Section 2540.85A.2.b.

(2) The applied monthly income of an individual's eligible spouse is computed the same way as is the individual's.

(3) The applied monthly income of an individual's ineligible spouse consists of the spouse's gross monthly income with no allowance for any disregards or deductions.

UPM § 2540.85(A)(4)

8. “For past months the Department uses the exact amount of the unit's available income received or deemed in the month.” UPM § 5025.05(A)(1)

9. “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: if income is the same each week, the regular weekly income is the representative weekly amount. “UPM § 5025.05(B)(2)(a)

On ███ 2022, the Department correctly determined the Appellant’s monthly gross income of $4290.54 ($2115.83 + $1875.37 = $3991.20 / 4weeks = $997.80 x 4.3 = $4290.54).

On ███ 2022, the Department correctly determined the Appellant’s monthly gross of $4138.13 ($1875.37 + $1974.05 = $3849.42 / 4 weeks = $962.35 x 4.3 = $4138.13)

On ███ 2022, the Department correctly determined the Appellant’s MED premium was $187.31 ($4138.13 gross income - $2265.00 [200% Federal Poverty Level (“FPL”)] = $1873.13 x .10(10%) = $187.31.

DISCUSSION

The Appellant does not agree that she should pay a monthly premium for Medicaid for the Employed Disabled, indicating she did not have a premium prior to the renewal. The Department was correct in calculating the Appellant’s gross income as reported on the work number, employment

services payroll information. The Department correctly calculated a premium based on the projected income.

On the day of the hearing the Appellant sent a screen shot from an application on her cell phone explaining that she gives part of her tips to other employees ("tipping out") at the restaurant where she works as a food server. The Appellant stated the tipping out, comes out of her reported gross pay. She stated the tipping out of her gross pay is not indicated on her wage stubs, only on the application on her phone. The Appellant stated the gross pay reported on the work number is not what she receives.

On ██████, 2022, and ██████ 2022, the Department correctly processed the premium based on the gross wages as reported by the work number. There is no provision in Departmental policy that discusses tips to other employees out of an employee's gross pay. There was no information on the work number earnings report for the Department to have knowledge of such practice. There was no proof provided at the time of the ██████, 2022, or ██████ 2022, determination of the premium amount for the Department.

DECISION

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

Scott Zuckerman
Scott Zuckerman
Hearing Officer

Pc: Jessica Carroll, Operations Manager, DSS, Norwich Regional Office
Marybeth Mark, Fair Hearings Liaison, DSS, Norwich Regional Office

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.