

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

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

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Request # 195904

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████ 2022, the Department of Social Services (the “Department”) sent ██████████ ██████████ (the “Appellant”), a Notice of Action (“NOA”) denying her application for medical benefits under the Medicare Savings Program (“MSP”).

On ██████████, 2022, ██████████, the Appellant’s Authorized Representative (“Arep”) requested an administrative hearing to contest the Department’s denial of the MSP.

On ██████████, 2022, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████, 2022.

On ██████████ 2022, the Arep requested the hearing to be rescheduled.

On ██████████ 2022, OLCRAH issued a notice rescheduling the administrative hearing as a telephonic hearing for ██████████ 2022.

On ██████████ 2022, in accordance with sections 17b-60, 17-61 and 4-176e to 4-189 inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing. The following individuals participated in the hearing:

██████████, Arep
David Dominique, Department's Representative
Carla Hardy, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether the Department correctly denied the Appellant's application for medical assistance benefits under the MSP.

FINDINGS OF FACT

1. On ██████████, 2022, Department reviewed the Appellant's application for medical assistance under the MSP. The Department received this application requesting assistance for the Appellant and the spouse on ██████████, 2022. (Exhibit 1: Case Notes; Hearing Summary)
2. The Appellant is married and resides with her spouse, ██████████, (the "spouse"). (Hearing Record)
3. The Appellant is ██████ years old (DOB ██████/57). The spouse is 65 years old (DOB ██████/57). (Arep's Testimony)
4. The Appellant and the spouse are both employed. (Arep's Testimony)
5. On ██████████, 2022, the Department requested proof of the Appellant's and the spouse's Social Security ("SSA") income. The information was due by ██████████ 2022. (Exhibit 2: Proofs We Need, ██████/22)
6. On ██████████ 2022, the Arep responded to the Department's request for information. She wrote a letter indicating that full retirement benefits for Social Security ("SSA") benefits begins at age 66 and six months for individuals born in 1957. That was the reason that the Appellant and spouse were not currently applying for SSA. (Exhibit 3: Letter from the Arep, ██████/22; Arep's Testimony)
7. The Appellant and the spouse will receive a reduced SSA benefit if they collect their SSA benefits prior to age 66 and six months. (Exhibit 3; Arep's Testimony)
8. The Appellant and the spouse are currently employed. (Arep's Testimony)
9. The Appellant and the spouse's SSA income will be reduced further because their earnings exceed \$19,000.00 yearly. (Exhibit 3; Arep's Testimony)
10. The Appellant and the spouse plan to retire and receive the full SSA retirement benefit in 2023. (Arep's Testimony)

11. The Appellant became eligible for Medicare Part A and Part B in [REDACTED] 2022. She pays for her Medicare Part B premiums. (Arep's Testimony)
12. The spouse became eligible for Medicare Part A and Part B in [REDACTED] 2022. He pays for his Medicare Part B premium. (Arep's Testimony)
13. On [REDACTED] 2022, the Department notified the Appellant that the application for MSP under the Additional Low Income Medicare Beneficiary ("ALMB") was denied because the individual did not provide information, report changes, or meet the requirements necessary to determine eligibility. (Exhibit 4: NOA, [REDACTED]/22)
14. 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 Arep requested an administrative hearing on [REDACTED] 2022. Therefore, this decision is due not later than [REDACTED] 2022. However, the hearing was rescheduled at the Arep's request causing a 12-day delay. Therefore, this decision is not due until [REDACTED] 2022. (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 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)]

"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 (1994) (citing Conn. Gen. Stat. § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A.2d 712 (1990)).

UPM § 2540.94 provides for the Categorical Eligibility Requirements for Qualified Medicare Beneficiaries under the Medicaid Coverage Group.

The Department correctly determined that the Medicare Savings Plan follows the regulations under the Medicaid Coverage Group.

3. Connecticut General Statutes Section 17b-256(f) provides in relevant part for eligibility for Medicare savings programs. 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. The Commissioner shall not apply an asset test for eligibility under MSP. 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 20 days after the date of implementation. Such policies and procedures shall be valid until the time final regulations are adopted.
4. 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.

The Department correctly determined that the Appellant is an assistance unit of one.

5. UPM § 5515.05(C)(2) provides that the needs group for an MAABD unit includes the following:
 1. The applicant or recipient; and
 2. 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 a needs group of two.

6. UPM § 5005(A) provides that 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 is inaccessible, or
 3. Deemed by the Department to benefit the assistance unit.
7. UPM § 5050.13(A)(1) provides that income from the Social Security Administration is treated as unearned income in all programs.
8. UPM § 5025.05(B)(1) provides that if income is received on a monthly basis, a representative monthly amount is used as the estimate of income.

The Department correctly determined SSA benefits are included in the determination of eligibility.

9. UPM § 3525.10 provides for cooperation related to potential or inaccessible income.
 - A. Requirements
Applicants for or recipients of AFDC, AABD, and MA must:
 1. Apply for or cooperate in applying for a potential benefit from any source other than SSI; and
 2. Cooperate in obtaining inaccessible income.
 - B. Potential Sources
 1. Potential income refers to legal entitlement to a benefit. This does not include gain through individual effort.
 2. Income to which the assistance unit may be entitled includes but is not limited to the following sources:
 - a. OASDI
 - b. Veteran's Compensation or pension'
 - c. Railroad Retirement'
 - d. Unemployment Compensation;
 - e. Worker's Compensation;
 - f. private pensions or disability benefits;
 - g. income rightfully belonging to a member of the assistance unit, which is paid to someone else and not made accessible to the unit.
 - C. Time Limit
Applicants or recipients must apply to the source within the time limit set by the Department or show good cause for not having done so.
 - D. Penalty
Failure to comply with this requirement results in ineligibility of the entire assistance unit.

The Appellant failed to apply for the potential SSA income.

On [REDACTED] 2022, the Department correctly denied the application for the MSP.

DECISION

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



Carla Hardy
Hearing Officer

Pc: Jill Sweeney, Operations Manager, David Dominique, Fair Hearing Liaison,
Department of Social Services, Danbury 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 06105-3725.

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 06105-3725. 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.