

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

██████████ 2023
SIGNATURE CONFIRMATION

██████████
██████████
REQUEST# 205887

NOTICE OF DECISION

PARTY

██████████
██████████ ██████████
████████████████████

PROCEDURAL BACKGROUND

On ██████████ 2022, the Department of Social Services (the “Department”) sent ██████████ ██████████ (the “Appellant”), a Notice of Action (“NOA”) denying his application for the Medicare Savings Program (“MSP”) due to excess income.

On ██████████ 2022, the Appellant requested an administrative hearing to contest the denial of MSP.

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

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

██████████, Appellant
██████████, Appellant’s Representative and Interpreter
Princess O’Reggio, Department’s Representative
Gody Martinez, Department’s Observer
Melissa Prisavage, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly denied the Appellant's application for the Medicare Savings Program for exceeding the income limit, effective [REDACTED] 2022.

FINDINGS OF FACT

1. On [REDACTED] 2022, the Appellant submitted an Online Application ("ONAP") for MSP for a household of 1. (Exhibit 1: ONAP)
2. The Appellant is [REDACTED] years of age, his date of birth is [REDACTED] (Exhibit 1: ONAP, Appellant's testimony)
3. The Appellant is a recipient of Medicare parts A and B. (Hearing record, Exhibit 2: Case Notes)
4. The Appellant receives Social Security Retirement income of \$1,968.00 per month and a pension of \$1,265.00 per month. (Hearing record, Exhibit 1: ONAP, Exhibit 2: Case Notes, Appellant's Testimony)
5. The Department calculated the Appellant's total household countable income as \$3,233.00 per month (\$1,968.00 + \$1,265.00). (Exhibit 4: MSP Income Test, Department's Testimony)
6. Effective March 1, 2022, the Federal Poverty Limit ("FPL") for a household of one is \$1,132.50 monthly. [*Federal Register: January 31, 2022 [Vol. 87, No. 14, pg. 3315-3316]*]
7. On [REDACTED] 2022, the Department issued the Appellant a Notice of Action ("NOA") denying the Appellant's application for MSP due to excess income. (Exhibit 3: NOA)
8. The Additional Low-Income Medicare Beneficiary ("ALMB"), also referred to as Q04, is a medical coverage group under the MSP. The monthly income limit for ALMB is \$2,785.95.
9. The issuance of this decision is timely under section 17b-61(a) of Connecticut General Statutes, 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. This decision, therefore, was due no later than [REDACTED] 2023, and is therefore timely.

CONCLUSIONS OF LAW

1. *“Programs administered by the Department of Social Services.* The Department of Social Services is designated as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.” Connecticut General Statutes (“Conn. Gen. Stat.”) § 17b-2

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

2. “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 (194) (citing Conn. Gen. Stat. § 17b-10; *Richard V. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A.2d712 (1990)).
3. *“Qualified Medicare Beneficiaries Coverage Group Description.* 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 paragraph 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.” UPM § 2540.94 (A)

The Department correctly determined that the Appellant is a recipient of Medicare parts A and B.

4. *“Income Criteria* 1. The Department uses AABD income criteria (Cross Reference 5000) to determine eligibility for the additional low income Medicare beneficiaries except that for eligibility to exist the income must less than a percentage of the Federal Poverty Level for the appropriate needs group size, as described in paragraph A.” UPM § 2540.97 (D)(1)(b)
5. *“Consideration of Income.* A. 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 (A)
6. *“Treatment of Income.* A. Social Security and Veterans’ Benefits 1. Income from these sources is treated as unearned income in all programs.” UPM § 5050.13 (A)(1)
7. *“Treatment of Income.* A. Payments received by the assistance unit from annuity plans, pensions and trusts are considered unearned income.” UPM § 5050.09 (A)

The Department correctly determined that the Appellant receives \$1,968.00 per month in Social Security Retirement benefits.

The Department correctly determined that the Appellant receives \$1,265.00 per month in a pension.

The Department correctly calculated the Appellant's monthly income as follows:

Social Security Retirement	\$1,968.00
+ Pension	\$1,265.00
= Total Monthly Income	\$3,233.00

8. *“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... **(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 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 on the department's Internet web site and the eRegulations System not later than twenty days after the date of implementation. Such policies and procedures shall be valid until the time final regulations are adopted.” Conn. Gen. Stat. § 17b-256(f)
9. Effective March 1, 2022, the Federal Poverty Limit (“FPL”) for a household of one is \$1,132.50 monthly. [*Federal Register: January 31, 2022 [Vol. 87, No. 14, pg. 3315-3316]*]
10. Two-Hundred Thirty-One (231%) percent of the Federal Poverty Limit is \$2,616.08 per month. ($\$1,132.50 \times 2.31 = \$2,616.08$)
11. Two-Hundred Forty-Six (246%) percent of the Federal Poverty Limit is \$2,785.95 per month. ($\$1,132.50 \times 2.46 = \$2,785.95$)

The Department correctly determined that the Appellant is over the income limit for a household of one for the ALMB program.

The Appellant's total monthly income of \$3,233.00 is greater than 246% of the FPL (\$2,785.95)

The Department correctly denied the Appellant's MSP application due to excess income.

DECISION

Appellant's appeal is **DENIED**.

Melissa Prisavage

**Melissa Prisavage
Fair Hearing Officer**

CC: Annjerry Garcia, Jamel Hilliard, Robert Stewart, DSS Operations Manager,
Bridgeport Regional Office
Princess O'Reggio, Department Representative, Bridgeport 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.