

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

[REDACTED]
SIGNATURE CONFIRMATION

CLIENT ID # [REDACTED]
CASE # [REDACTED]
REQUEST# 208861

NOTICE OF DECISION

PARTY

[REDACTED]
[REDACTED]
[REDACTED] [REDACTED]
[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED], the Department of Social Services (the "Department") sent [REDACTED] (the "Appellant") a Notice of Action ("NOA") advising that his Medicare Savings Program ("MSP") Qualified Medicare Beneficiaries ("QMB") eligibility was approved effective [REDACTED], through [REDACTED].

On [REDACTED] [REDACTED], the Appellant's Authorized Representative ("AREP") requested an administrative hearing to contest the effective date of such benefits.

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

On [REDACTED], in accordance with sections 17b-60, 17b-61 and 4-176e to 4-184 inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing via telephone conference.

The following individuals participated in the hearing:

[REDACTED], Appellant's AREP
Rose Montinat, Department's Representative
Sara Hart, Fair Hearing Officer

The Appellant did not participate in the administrative hearing.

The hearing record remained open for the Department and the AREP to submit additional evidence. The Department submitted evidence, the AREP offered no further response, and the hearing record closed on [REDACTED].

STATEMENT OF THE ISSUE

The issue is whether the Department's decision to grant the Appellant's QMB benefits effective [REDACTED], was correct.

FINDINGS OF FACT

1. [REDACTED] is the Appellant's mother and AREP. (*AREP's Testimony, Hearing Record*)
2. The Appellant is [REDACTED] years old (DOB: [REDACTED]) and resides with his mother. He receives medical coverage under the HUSKY D program administered by the Department. (*Hearing Record, Exhibit 3: SOLQ Results*)
3. The Appellant is disabled. He receives \$786.00 in monthly Social Security Disability Income and \$148.00 in monthly Supplemental Security Income. (*Exhibit 3*)
4. In [REDACTED], the Appellant's AREP contacted the Department's Benefit Center via telephone and informed the Department of the Appellant's anticipated [REDACTED] eligibility for Medicare parts A and B. (*AREP's Testimony*)

5. On [REDACTED], the Appellant became eligible for Medicare parts A and B. *(Exhibit 3, Department's Testimony)*
6. On [REDACTED], the Appellant's AREP contacted the Department's Benefit Center to inquire about payment for the Appellant's Medicare premiums. The Department advised the AREP to apply for the MSP. *(Exhibit 6: Case Notes)*
7. On [REDACTED], the Appellant's AREP again contacted the Department's Benefit Center regarding payment of the Appellant's Medicare premiums. The Department mailed the AREP an application to apply for the MSP. *(Exhibit 6)*
8. On [REDACTED], the Department approved the Appellant's eligibility for the MSP QMB benefit, effective [REDACTED], and issued a NOA advising the Appellant of his eligibility for the MSP QMB benefit beginning [REDACTED], through [REDACTED]. *(Exhibit 1: NOA 11/11/2022, Department Testimony)*
9. The hearing record lacks evidence of an application for the MSP QMB. *(Hearing Record)*
10. The AREP is seeking MSP QMB benefits for the Appellant effective [REDACTED]. *(AREP's Testimony)*
11. The issuance of this decision is timely under Connecticut General Statutes 17b-61(a), which requires that the Department issue a decision within 90 days of the request for an administrative hearing. The Appellant requested an administrative hearing on [REDACTED], with this decision due [REDACTED]. The hearing record remained open through [REDACTED]; therefore, this decision is due no later than [REDACTED]. *(Hearing Record)*

CONCLUSIONS OF LAW

1. Section 17b-2(6) of the Connecticut General Statutes provides that 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.
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 § 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.

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).

The Department correctly determined the Appellant is a recipient of Medicare parts A and B, effective [REDACTED], and is a Qualified Medicare Beneficiary.

4. UPM § 1560.10(D) provides that for the Qualified Medicare Beneficiary program, the beginning date of assistance is the first of the calendar month following the month in which an individual is determined eligible. The month of eligibility determination is considered to be the month that the Department receives all information and verification necessary to reach a decision regarding eligibility.

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

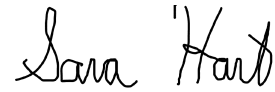
The Department incorrectly determined the Appellant’s date of eligibility for the MSP QMB was [REDACTED].

DECISION

The Appellant’s appeal is **REMANDED** to the Department.

ORDER

1. The Department shall review the Appellant's eligibility for the MSP QMB beginning [REDACTED].
2. The Department shall make a new MSP QMB eligibility determination and issue an updated NOA.
3. Compliance with this order is due to the undersigned no later than [REDACTED].



Sara Hart
Fair Hearing Officer

Cc: Rose Montinat, Department Representative Hartford Regional Office
Josephine Savastra, Operations Manager Hartford Regional Office
Matthew Kalarickal, Operations Manager Hartford Regional Office
David Mazzone, Operations Manager Hartford 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.