

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 # 211607

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2023, the Department of Social Services (the “Department”) issued a Notice of Action (“NOA”) to ██████████ (the “Appellant”) discontinuing the Qualified Medicare Beneficiaries (“QMB”) also known as Q01 benefits under the Medicare Savings Program (“MSP”) effective ██████████ 2023.

On ██████████ 2023, the Appellant requested an Administrative Hearing to contest the proposed discontinuance.

On ██████████ 2023, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the Administrative Hearing for ██████████ 2023.

On ██████████ 2023, the Appellant contacted the OLCRAH and by phone requested to withdraw the request for a Hearing.

On ██████████ 2023, the OLCRAH issued a notice requesting the Appellant’s signature to confirm the withdrawal of her Hearing request.

On [REDACTED] 2023, the OLCRAH received a written request from the Appellant for the Administrative Hearing to be rescheduled.

On [REDACTED] 2023, the Appellant contacted the OLCRAH by phone and requested for the Administrative Hearing to be rescheduled.

On [REDACTED] 2023, the OLCRAH issued a notice rescheduling the Administrative Hearing for [REDACTED] 2023.

On [REDACTED] 2023, in accordance with sections 17b-60, 17b-61, and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, the OLCRAH held an Administrative Hearing telephonically.

The following individuals participated in the hearing by telephone:

[REDACTED], Appellant
Marybeth Mark, Department's Representative
Jessica Gulianello, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly discontinued the QMB ("Q01") benefits under the MSP.

FINDINGS OF FACT

1. The Appellant is [REDACTED] years old [REDACTED] (*Appellant's Testimony*)
2. The Appellant is [REDACTED]. (*Appellant's Testimony*)
3. The Appellant was determined to be [REDACTED] by the Social Security Administration ("SSA") and approved for [REDACTED] benefits. (*Appellant's Testimony*)
4. The Appellant's [REDACTED] benefits from the SSA subsequently transitioned to [REDACTED] [REDACTED] (*Appellant's Testimony*)
5. The Appellant is a recipient of Medicare benefits. (*Appellant's Testimony*)
6. In 2022, the Appellant was receiving [REDACTED] benefits from the SSA in the gross amount of \$2,365.00 per month. (*Appellant's Testimony, Department's Testimony*)

7. The Department determined the Appellant to be eligible for the QMB / Q01 benefits of the MSP with a certification cycle beginning [REDACTED] 2022, through [REDACTED] 2023. *(Department's Testimony)*
8. In [REDACTED] 2023, the Appellant's gross [REDACTED] benefits from the SSA auto increased from \$2,365.00 to \$2570.00 per month due to the SSA cost-of-living adjustments ("COLA's"). *(Appellant's Testimony, Department's Testimony)*
9. On [REDACTED] 2023, the Department issued the Appellant a NOA to the address of [REDACTED]. The NOA informed the Appellant the QMB / Q01 benefits under the MSP were being discontinued effective [REDACTED] 2023. The NOA cited the following reasons for the discontinuance, "The monthly net income of your household is more than the limit for this program" and "Does not meet program requirements". The NOA further advised the Appellant that she was determined to be eligible for the Specified Low Income Medicare Beneficiaries ("SLMB") also known as Q03 benefits under the MSP effective [REDACTED] 2023. *(Exhibit 1: NOA, [REDACTED]/2023, Hearing Summary, Department's Testimony)*
10. The Department administers the MSP in tiered benefit plans determined by corresponding income limits. The benefits provided under the MSP vary according to the respective benefit group. *(Hearing Summary, Department's Testimony)*
11. The income limit for the QMB / Q01 plan under the MSP for an eligibility determination group ("EDG") comprised of one individual is \$2,564.00 per month. *(Hearing Summary, Department's Testimony)*
12. The income limit for the SLMB / Q03 plan under the MSP for an EDG comprised of one individual is \$2,807.00 per month. *(Hearing Summary, Department's Testimony)*
13. The Department determined that the Appellant's [REDACTED] benefits in the amount of \$2,570.00 per month exceeded the QMB / Q01 benefit income limit of \$2,564.00 per month resulting in ineligibility effective [REDACTED] [REDACTED] 2023. *(Hearing Summary, Department's Testimony)*
14. The Department determined that the Appellant's [REDACTED] benefits in the amount of \$2,570.00 per month are below the SLMB / Q03 benefit income limit of \$2,807.00 per month resulting in eligibility effective [REDACTED] [REDACTED] 2023. *(Hearing Summary, Department's Testimony)*
15. The Department transitioned the Appellant from the QMB / Q01 benefit tier under the MSP to the SLMB/ Q03 benefit tier under the MSP effective [REDACTED] 2023. *(Exhibit 1: NOA, [REDACTED]2023, Hearing Summary, Department's Testimony)*
16. 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

██████████ 2023. Therefore, this decision was not due until ██████████ 2023. The hearing, however, which was originally scheduled for ██████████ 2023, was rescheduled to ██████████ 2023, at the Appellant's request which caused a ██████-day delay. Because this ██████-day delay resulted from the Appellant's request, this decision is not due until ██████████, 2023, and is therefore timely. (*Hearing Record*)

CONCLUSIONS OF LAW

1. Section 17b-2(6) of the Connecticut General Statutes ("Conn. Gen. Stats.) provides as follows:

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.

The Department has the authority to administer the MSP.

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 correctly determined the Appellant to be a recipient of Medicare.

3. "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 Income Maintenance*, 214 Conn. 601, 573 A.2d 712(1990))
4. Section 2015.05(A) of the Uniform Policy Manual ("UPM") provides as follows:

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 the Appellant to be an assistance unit of one member.

5. Departmental policy provides as follows:

The needs group for an 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)

UPM § 5515.05(C)(2)

The Department correctly determined the Appellant to be a needs group of one applicant.

6. Centers for Medicare and Medicaid Services ("CMS") State Medicaid Manual Chapter V Section § 3490.2 states in part that for purposes of determining financial eligibility of a QMB individual, use the methodologies of the SSI program, unless more liberal methodologies are approved by HCFA under § 1902(r)(2) of the Act.
7. Departmental policy provides as follows:

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 provide that it is inaccessible; or
3. Deemed by the Department to benefit the assistance unit.

UPM § 5005(A)

"Income from the Social Security Administration is treated as unearned income in all programs."

UPM § 5050.13(A)(1)

“If income is received on a monthly basis, a representative monthly amount is used as the estimate of income.”

UPM § 5025.05(B)(1)

The Department correctly determined the Appellant’s gross [REDACTED] benefits from the SSA in the amount of \$2,570.00 per month is countable income under the MSP.

8. State statute provides as follows:

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 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-256f

9. The Department of Health and Human Services lists the 2023 annual poverty guidance for a household of one individual as \$14,580.00. [Federal Register/Vol. 88, No. 12/Thursday, January 19, 2023 / Notices p.3424]

\$14,580.00 annually / 12 months = \$1,215.00 monthly federal poverty limit (“FPL”)

The monthly Income Limit(s) for a single individual under the MSP effective [REDACTED] 2023, are as follows:

QMB / Q01:	\$2,564.00
SLMB / Q03:	\$2,802.00
ALMB / Q04:	\$2,989.00

The Department correctly determined the Appellant's countable [REDACTED] benefits of \$2,570.00 per month from the SSA exceed the income limit for the QMB / Q01 tier of the MSP resulting in ineligibility.

The Department correctly determined the Appellant's countable [REDACTED] benefits of \$2,570.00 per month from the SSA are below the income limit for the SLMB / Q03 tier of the MSP resulting in eligibility.

10. Departmental policy provides as follows:

Except as provided in section 5030.15D., unearned income disregards are subtracted from the unit member's total gross monthly unearned income.

UPM § 5030.15(A)

Amount and Duration of the Disregards: QMB Disregard: The disregard is the amount of additional benefits received from the Social Security each year which result from the annual Cost of Living Allowance (COLA).

UPM § 5030.15(B)(1)(d)

There is no durational limit to the use of unearned income disregards, except that used for the QMB coverage group.

UPM § 5030.15(B)(2)

The QMB disregard is used only in the months of January, February, and March of each year.

UPM § 5030.15(B)(3)

Per Departmental policy, the Appellant is entitled to a QMB disregard equivalent to the additional retirement benefit amount (COLA increase) received from the SSA for [REDACTED] [REDACTED] [REDACTED].

I find the Department incorrectly discontinued the Appellant's QMB / Q01 benefits under the MSP effective [REDACTED] 2023.

The transition from the QMB / Q01 benefit tier to SLMB / Q03 benefit tier under the MSP should not begin until [REDACTED] 2023.

DECISION

The Appellant's appeal is **GRANTED in part.**

ORDER

1). The Department must reinstate the QMB / Q01 benefits under the MSP for the one (1) month benefit period beginning [REDACTED] 2023, through [REDACTED] 2023, and notify the Appellant accordingly.

2). Compliance with this order is due no later than [REDACTED] 2023.

Jessica Gulianello

Jessica Gulianello
Hearing Officer

Cc: Marybeth Mark, DSS RO #40
Jessica Carroll, DSS RO # 40

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, 55 Elm Street, 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.