

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 # 213595

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2023, the Department of Social Services (the “Department”) issued a Notice of Action (“NOA”) to ██████████ (the “Appellant”) denying his request for Qualified Medicare Beneficiaries (“QMB”) benefits under the Medicare Savings Program (“MSP”).

On ██████████ 2023, the Appellant requested an Administrative Hearing to contest the Department’s denial of QMB benefits under the MSP.

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

On ██████████ 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:

██████████ Appellant
Javier Rivera, Department’s Representative
Jessica Gulianello, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly denied the Appellant's request for QMB benefits under the MSP.

FINDINGS OF FACT

1. On [REDACTED] 2023, the Department received an application ("W-1QMB") from the Appellant requesting benefits under the MSP. (Exhibit 2: *Exhibit 2: W-1QMB Application – signed [REDACTED] 2023 – received [REDACTED] 2023, Hearing Record*)
2. On [REDACTED] 2023, the Department reviewed the Appellant's request for benefits under the MSP and registered the application in the Department's electronic eligibility management system, ("ImpaCT"). (Exhibit 1: *Case Notes: [REDACTED] 2023, Hearing Summary, Department's Testimony*)
3. The Appellant is [REDACTED] years old (DOB: [REDACTED]). (Exhibit 2: *W-1QMB Application – signed [REDACTED] 2023, Exhibit 4: ImpaCT SOLQ-I Results Details, Appellant's Testimony*)
4. The Appellant is [REDACTED]. (Exhibit 2: *W-1QMB Application – signed [REDACTED] /2023 – received [REDACTED] /2023, Appellant's Testimony*)
5. The Appellant is a recipient of [REDACTED] Start date: [REDACTED] /2022. (Exhibit 4: *ImpaCT [REDACTED] Results Details, Hearing Record*)
6. The Appellant is a recipient of [REDACTED], Start date: [REDACTED] /2023). (Exhibit 4: *ImpaCT [REDACTED] Results Details, Hearing Record*)
7. The Appellant is employed part-time with [REDACTED]. (Hearing Record)
8. On [REDACTED] 2023, the Department verified the Appellant's wages from his employment with [REDACTED] via an Employment Verification Database, ([REDACTED] [REDACTED]). (Exhibit 1: *Case Notes – [REDACTED] 2023, Exhibit 7: [REDACTED], Hearing Summary, Department's Testimony*)
9. On [REDACTED] 2023, the Department issued the Appellant a Proofs We Need ("W-1348") form requesting the following due by [REDACTED] 2023: "Proof you have applied for Social Security Benefits". Acceptable proof(s): "Letter from the Social Security Administration". Additional Information: "Pursuing all potential income sources is a requirement of Medicaid. Provide verification that you have applied for or have a case pending with the social security administration." (Exhibit 1: *Case Notes*)

– █████/2023, Exhibit 3: W-1348 – █████/2023, Hearing Summary, Department's Testimony)

10. The Appellant received the W-1348 request form as issued by the Department. (Appellant's Testimony)
11. The Appellant did not provide a response and/or contact the Department by the specified due date of █████ 2023. (Appellant's Testimony)
12. On █████ 2023, the Department reviewed the Appellant's case and determined that he did not provide a response to the W-1348 request form. The Department subsequently issued the Appellant a NOA advising that his request for QMB benefits under the MSP was denied effective █████ 2023, citing the following reasons, "You cannot receive benefits until the month after you are found eligible", "You did not return all of the required proofs by the date we asked" and "Does not meet program requirements". (Exhibit 1: Case Notes – █████ 2023, Exhibit 5: NOA – █████ 2023, Hearing Summary, Department's Testimony)
13. On █████ █████ 2023, the OLCRAH received the Appellant's request for an Administrative Hearing. (Exhibit A: Hearing Request, signed █████/2023)
14. The Appellant has not applied for Social Security Retirement Benefits, Social Security Disability Insurance, and/or Supplemental Security Income with the Social Security Administration ("SSA"). (Appellant's Testimony)
15. The Appellant's full retirement age with the SSA is █████ years old. As such, the Appellant does not intend to apply for Social Security Retirement benefits with the SSA until he reaches his full retirement age. (Appellant's Testimony)
16. The Appellant is a █████. The Appellant receives major medical and prescription (pharmacy) benefits from the █████. The Appellant does not receive a pension and/or income from the █████ (Appellant's Testimony)
17. 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 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 1395l-2 of this title, but not including an individual entitled to such benefits only pursuant to an enrollment under section 1351l-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)

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 2540.94(A)(1) of the Uniform Policy Manual ("UPM") provides as follows:

Qualified Medicare Beneficiaries: This group includes individuals who:

- a. are entitled to hospital insurance benefits under part A of Title XVII of the Social Security Act; and
- b. have income and assets equal to or less than the limits described in part C and D.

The Department correctly determined the Appellant to be a recipient of [REDACTED] Furthermore, the Department correctly evaluated the Appellant's eligibility for QMB benefits under the MSP.

5. UPM § 2015.05(A) 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 an assistance unit of one, the Appellant.

6. UPM § 5515.05(C)(2) 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)

The Department correctly determined a needs group of one, the Appellant.

7. UPM § 2540.94(D)(1) provides as follows:

The Department uses AABD income criteria (Cross Reference 5000), including deeming methodology, to determine eligibility for this coverage group except for the following:

- a. the annual cost of living (COLA) percentage increase received by SSA and SSI recipients each January is disregarded when determining eligibility in the first three months of each calendar year;
- b. for eligibility to exist income must be equal to or less than 100% percent of the Federal Poverty Level for the appropriate needs group size.

8. UPM § 3525.10(A) provides as follows:

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.

The Department correctly determined as a condition of eligibility the Appellant is required to apply for and cooperate in applying for all sources of potential income.

9. UPM § 1540.05(C)(1) provides as follows:

The Department requires verification of information: a. when specifically required by federal or State law or regulations; and b. when the Department considers it necessary to corroborate an assistance unit's statements pertaining to an essential factor or eligibility.

10. UPM § 1540.05(D)(1) provides as follows:

The penalty for failure to provide required verification depends upon the nature of the factor or circumstance for which verification is required: If the eligibility of the assistance unit depends directly upon a factor or circumstance for which verification is required, failure to provide verification results in ineligibility for the assistance unit. Factors on which unit eligibility depends directly include, but are not limited to: a. income amounts.

11. UPM § 1540.10(A) provides as follows:

The verification of information pertinent to an eligibility determination or a calculation of benefits is provided by the assistance unit or obtained through the direct efforts of the Department. The assistance unit bears the primary responsibility of providing evidence to corroborate its declaration.

12. UPM § 3525.10(C) provides as follows:

Time Limits: 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.

13. UPM § 3525.10(D) provides as follows:

Penalty: Failure to comply with this requirement results in ineligibility of the entire assistance unit.

14. UPM § 1505.40(A)(4)(e) provides as follows:

The Department may complete the eligibility determination at any time during the application process when the applicant refuses to cooperate in completing an eligibility requirement rendering the entire assistance unit ineligible.

15. UPM § 1505.40(B)(1)(b)(1) provides as follows:

Application Failure: The following provisions apply if the applicant failed to complete the application without good cause: If assistance cannot be granted: AFDC, AABD, and MA cases are denied between the thirtieth day and the last day of the appropriate promptness standard for processing the application;

16. UPM § 1505.40(B)(1)(c)(1) provides as follows:

The applicant's failure to provide required verification by the processing date causes: one or more of the assistance unit to be ineligible if the unverified circumstance is a condition of eligibility;

The Department asserted that based on the Appellant's age, [REDACTED] he is potentially eligible for early retirement benefits with the Social Security Administration. As such, the Department correctly issued the Appellant a W-1348 form requesting proof of his application for benefits with the Social Security Administration.

The Appellant provided testimony confirming receipt of the W-1348 form as issued by the Department. Furthermore, the Appellant provided testimony corroborating that he did not provide the documentation as requested by the Department and/or contact the Department prior to the denial. The Appellant argued during the proceedings that he has not applied for benefits with the Social Security Administration as he hasn't reached his full retirement age.

The Department correctly determined in accordance with Departmental policies that the Appellant is required to apply for and cooperate in obtaining potential income from all sources, including but not limited to benefits with the Social Security Administration, as a condition of eligibility for benefits under the MSP.

The Department correctly determined that the Appellant failed to timely provide the required information as requested to establish his eligibility for benefits. Therefore, I find the Department correctly denied the Appellant's request for QMB benefits under the MSP.

DECISION

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

Jessica Gulianello

Jessica Gulianello
Hearing Officer

Cc: Javier Rivera, DSS- ESW RO #11
Angelica Branfalt DSS – SSOM – RO # 11

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.