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

[redacted] 2023
Signature Confirmation

Client ID [redacted]
Case ID [redacted]
Request # 216907

NOTICE OF DECISION

PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted] 2023, the Department of Social Services (the "Department") sent [redacted] (the "Appellant") a Notice of Action ("NOA) closing his medical benefits under the Medicare Savings Program ("MSP") effective [redacted] 2023.

On [redacted] 2023, the Appellant requested an administrative hearing to contest the Department's decision to close such benefits.

On [redacted] 2023, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for [redacted] 2023.

On [redacted] 2023, 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 via teleconference at the Appellant's request.

The following individuals attended the hearing:

[redacted] Appellant, Appellant
[redacted] Witness for the Appellant
Christopher Filek, Department's Representative
Lisa Nyren, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to close the Appellant's medical benefits under the Medicare Savings Program ("MSP") effective [redacted] 2023 was correct.

FINDINGS OF FACT

1. In 2020, the Appellant turned age [redacted] and began receiving Medicare Part A and Medicare Part B from the Social Security Administration. (Appellant's Testimony)

2. The Appellant received medical benefits under the Medicare Savings Program ("MSP") Qualified Medicare Beneficiary ("QMB") program since 2020 as a household of one, the Appellant. (Hearing Record)

3. The Appellant is married to [redacted] (Spouse"). The spouse resides in a skilled nursing facility. (Appellant's Testimony)

4. The Appellant receives gross Social Security Benefits ("SSA") of $2,319.00 per month. (Stipulated)

5. The Appellant receives a community spousal allowance ("CSA") of $704.12 monthly. A portion of the spouse's income is diverted to the Appellant to help pay his expenses in the community; this is referred to as a CSA. (Stipulated)

6. The Appellant's monthly gross income is $3,023.12 per month. SSA $2,319.00 + CSA $704.12 = $3,023.12. (Hearing Record)

7. There are three levels of benefits under the MSP. Each level has a distinct income limit. Reference chart. (Exhibit 4: MSP Income Limits)

Medicare Savings Programs in [redacted]	Income Limit
Qualified Medicare Beneficiary/QMB	$2,564.00
Specified Low-Income Medicare Beneficiary/SLMB	$2,807.00
Additional Low-Income Medicare Beneficiary/ALMB	$2,989.00

8. On [redacted] 2023, the Department closed the Appellant's medical benefits under the QMB program effective [redacted] 2023 because the household's monthly income of $3,023.12 exceeds the income limit under the MSP. (Hearing Record)

9. On [redacted] 2023, the Department issued the Appellant a Notice of Action. The notice stated the Department closed the Appellant's MSP-QMB

benefits under the MSP effective [redacted] 2023 because "the monthly net income of your household is more than the limit for this program and does not meet program requirements." (Exhibit 3: Notice of Action)

10. 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 [redacted] 2023. Therefore, this decision is due not later than [redacted] 2023.

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.

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 XVII 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)

3. State statute provides as follows:

   The Department of social Services shall be the sole agency to determine eligibility for assistance and services under programs operated and administered by said department.

   Conn. Gen. Stat. § 17b-261b

4. 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

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

   $14,580.00 annual FPL / 12 months = $1,215.00 monthly FPL

   Effective March 1, 2023, the Department correctly calculated the MSP Income limits as follows:

   211% x $1,215.00 = $2,563.65 or $2,564.00 QMB income limit
   231% x $1,215.00 = $2,806.65 or $2,807.00 SLMB income limit
   246% x $1,215.00 = $2,988.90 or $2,989.00 ALMB income limit

5. “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))

6. 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 an assistance unit of one.

7. 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 a needs group of one. The spouse is excluded because she does not share the same home with the Appellant; she resides in a skilled nursing facility full time.

8. Department 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
   3. Deemed ty the Department to benefit the assistance unit.

   UPM 5005(A)

   "Available income is all income from which the assistance unit is considered to benefit, either through actual receipt or by having the income deemed to exist for its benefit." UPM § 5000.01

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 community spousal allowance of $704.12 per month is considered available income and counted under the MSP.

The Department correctly determined the Appellant's Social Security Benefits of $2,319.00 per month is considered available income and counted under the MSP.

The Department correctly determined the Appellant's monthly gross income as $3,023.12. (CSA 704.12 + SSA $2,319.00)

9. 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®(2) of the Act.

   The Department correctly determined the Appellant's countable income of $3,023.12 exceeds the established income limits under the MSP – QMB, SLMB, and ALMB programs.

MSP	QMB	SLMB	ALMB
Income Limits	$2,564.00	$2,807.00	$2,989.00

10. "When eligibility has been determined to no longer exist, the last day for which the assistance unit is entitled to the benefits of the program is: the last day of the month preceding the month in which ineligibility is caused by: excess income or excess assets – AFDC, AABD, MA." UPM § 1565.05(A)(1)(a)

    The Department correctly determined the Appellant's eligibility under the MSP ended on [redacted] 2023 because the Appellant's countable income exceeds the MSP income limits.

11. "Except in situations described below, the Department mails or gives adequate notice at least ten days prior to the date of the intended action if the Department intends to: discontinue, terminate, suspend or reduce benefits." UPM § 1570.10(A(1)

On [redacted] 2023, the Department correctly issued the Appellant a Notice of Action informing him the Department intends to close his medical benefits under the MSP – QMB program effective [redacted] 2023 because his income exceeds the program limits.

DISCUSSION

At the start of the pandemic, Congress enacted the Families First Coronavirus Response Act which included the requirement that States keep people continuously enrolled under Medicaid programs through the end of the COVID-19 public health emergency (PHE). Under the Consolidated Appropriations Act, 2023 Congress ended the continuous enrollment provision under Medicaid on [redacted] 2023. States, such as Connecticut, have removed the pandemic-era protections and have resumed normal operations which includes Medicaid eligibility renewals and termination of Medicaid coverage for individuals who are no longer eligible. This is referred to as unwinding.

The Department conducted a review of the Appellant's eligibility under the MSP. Upon this review, the Department concluded the Appellant's household income, SSA and CSA, exceeds the MSP income limits resulting in the termination of Medicaid benefits under the MSP.

The Appellant's concern over the financial burden this may cause due to his medical diagnoses which includes stage 4 lung cancer and adrenal cancer and rising out of pocket medical costs is compelling. However, the protections offered under the PHE have ended and the Department's action to terminate the Appellant's Medicaid coverage under the MSP is correct.

DECISION

The Appellant's appeal is denied.

Lisa A. Nyren
Lisa A. Nyren
Fair Hearing Officer

CC: Brian Sexton, DSS RO #50
Christopher Filek, DSS RO #50

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, 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.