

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

■■■ ■■ 2024
Signature Confirmation

Client ID ■■■■■■
Case ID ■■■■■■
Request # 229819

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ■■■■■■ ■■ 2023, the Department of Social Services (the “Department”) sent ■■■■■■■■■■■■■■■■■■■■ (the “Appellant”) a Notice of Action (“NOA”) closing his medical benefits under the Medicare Savings Program (MSP) Qualified Medicare Beneficiaries (“QMB”) effective ■■■■■■ ■■ 2023.

On ■■■■■■ ■■ 2023, the Appellant requested an administrative hearing to contest the Department’s decision to discontinue such benefits.

On ■■■■■■ ■■ 2023, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ■■■■■■ ■■ 2024.

On ■■■■■■ ■■ 2024, ■■■■■■■■■■■■■■■■■■■■ (the “AREP”), the Appellant’s authorized representative, contacted OLCRAH and withdrew the Appellant’s hearing request because the Department informed her the Appellant’s medical benefits would be reinstated effectively resolving the issue.

On ■■■■■■ ■■ 2024, the AREP contacted OLCRAH on behalf of the Appellant to request a continuance because the Department failed to resolve the issue. OLCRAH approved a continuance.

On ■■■■■■ ■■ 2024, the OLCRAH issued a notice scheduling the administrative hearing for ■■■■■■ ■■ 2024.

On [REDACTED] [REDACTED] 2024, the AREP on behalf of the Appellant requested a continuance which OLCRAH granted.

On [REDACTED] [REDACTED] 2024, the OLCRAH issued the Appellant a notice scheduling the administrative hearing for [REDACTED] [REDACTED] 2024.

On [REDACTED] [REDACTED] 2024, in accordance with sections 17b-60, 17b-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 called in for the hearing:

[REDACTED] Appellant
[REDACTED], Appellant's Authorized Representative
Selena Edwards, Department Representative
Lisa Nyren, Fair Hearing Officer

The hearing record remained open for the submission of additional evidence from the Department. The hearing record closed on [REDACTED] [REDACTED] 2024.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department issued payment to the Social Security Administration on behalf of the Appellant for the [REDACTED] 2023 Medicare Part B premium under the MSP QMB program.

FINDINGS OF FACT

1. The Appellant receives monthly Social Security Disability benefits ("SSDI"). The Appellant receives SSDI benefits through direct deposit. The Appellant has Medicare Part A and Part B as administered by the Social Security Administration ("SSA").
2. The 2023 monthly Medicare Part B premium was \$164.90. The 2024 monthly Medicare Part B premium increased to \$174.70. (Exhibit A: SSA Letter and Exhibit B: SSA Letter)
3. The Appellant received medical benefits under the MSP QMB program as administered by the Department for himself through [REDACTED] [REDACTED] 2023 under case ID [REDACTED]. The MSP QMB program pays Medicare Part B monthly premium and Medicare deductibles and co-pays for qualified recipients. (Hearing Record)

4. On [REDACTED] [REDACTED] 2023, the Department closed the Appellant's medical benefits under the MSP QMB program effective [REDACTED] [REDACTED] 2023 under case ID [REDACTED] in error. (Department Representative Testimony and Exhibit 1: Notice of Action)
5. On [REDACTED] [REDACTED] 2023, the Department issued the Appellant a Notice of Action informing him his medical benefits under the MSP QMB program will close on [REDACTED] [REDACTED] 2023 listing the reasons as: No eligible household members, No household members are eligible for this program, [and] does not meet program requirements. (Exhibit 1: Notice of Action)
6. The Appellant paid his [REDACTED] 2023 Medicare Part B premium. (Hearing Record)
7. On [REDACTED] [REDACTED] 2023, the Appellant received notification from the Social Security Administration ("SSA") informing him the State of Connecticut will no longer pay his Medicare Part B premium on his behalf after [REDACTED] 2023. Beginning [REDACTED] [REDACTED] 2023, the Appellant must pay his Medicare Part B monthly premium. (Exhibit A: SSA Letter)
8. On [REDACTED] [REDACTED] 2023, the Department granted medical coverage under the MSP QMB program effective [REDACTED] [REDACTED] 2024 for the Appellant under a new case ID [REDACTED]. The Department determined the Appellant not eligible under the MSP QMB program for [REDACTED] 2023 because eligibility for the program is effective the month after the Department finds an applicant eligible. (Exhibit 2: Notice of Action)
9. On [REDACTED] [REDACTED] 2023, the Department issued the Appellant a Notice of Action informing him the Department found him eligible for the MSP QMB program beginning [REDACTED] [REDACTED] 2024. Eligibility for [REDACTED] 2023 remained denied for the reason you cannot receive benefits until the month after you are found eligible. (Exhibit 2: Notice of Action)
10. The Appellant paid his [REDACTED] 2024 Medicare Part b premium. (Hearing Record)
11. On [REDACTED] [REDACTED] 2023, the Department completed a second review of the Appellant's medical coverage under the MSP QMB case ID [REDACTED] and regranted medical coverage under the MSP QMB program effective [REDACTED] [REDACTED] 2024 for the Appellant. The Department determined the Appellant not eligible under the MSP QMB program for [REDACTED] 2023 because eligibility for the program is effective the month after the Department finds an applicant eligible. (Exhibit 3: Notice of Action)
12. On [REDACTED] [REDACTED] 2024, the Appellant received notification from the SSA informing him the State of Connecticut will begin paying his Medicare Part

- B premium beginning [REDACTED] 2024. The notice informed the Appellant he will receive a refund in the amount of \$174.70 as reimbursement for the [REDACTED] 2024 Medicare Part B premium he paid. SSA would release the refund around [REDACTED] 2024. (Exhibit B: SSA Letter)
13. On [REDACTED] 2024, the Department approved medical benefits under the MSP QMB program with case ID [REDACTED] for [REDACTED] 2023 to correct the loss of coverage the Department imposed on [REDACTED] 2023. (Exhibit 4: Notice of Action, Exhibit 5: Case Notes, and Department Representative Testimony)
 14. On [REDACTED] 2024, the Department emailed the Department's MBI Unit¹ notifying the unit of the MSP/QMB retroactive grant for [REDACTED] 2023. (Exhibit 7: Email Chain)
 15. The Appellant received the [REDACTED] 2024 Medicare Part B reimbursement of \$174.70 from the SSA. (AREP Testimony)
 16. The Appellant did not receive the [REDACTED] 2023 Medicare Part B reimbursement from the SSA. (AREP Testimony)
 17. The Appellant seeks reimbursement for [REDACTED] 2023 Medicare Part B premium which he paid due to the Department's [REDACTED] 2023 error closing his MSP QMB medical benefits effective [REDACTED] 2023. (AREP Testimony)
 18. On [REDACTED] 2024, the Department MBI Unit confirmed the Department failed to submit the Medicare Part B premium to the SSA on behalf of the Appellant. On [REDACTED] 2024, the Department initiated payment of \$164.90 for the [REDACTED] 2023 Medicare Part B premium on behalf of the Appellant to the SSA. However, this process can take up to 90 days. (Exhibit 7: Email Chain)
 19. As a result of the Department MBI Unit's action to initiate payment of \$164.90 for the [REDACTED] 2023 Medicare Part B premium on behalf of the Appellant to the SSA on [REDACTED] 2024, the Department has taken the appropriate action to resolve the issue. (Exhibit 7: Email Chain)
 20. 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. However, the hearing, which was originally scheduled for [REDACTED] 2024, was rescheduled twice at the request of the Appellant, which caused a [REDACTED]-day delay. The close of the hearing record, which was anticipated to close on [REDACTED]

¹ Medicare Beneficiary Identifier

2024 did not close for the admission of evidence until [REDACTED] [REDACTED] 2024. Because this [REDACTED]-day delay resulted from the Appellant's request, the final decision is not due until [REDACTED] [REDACTED] 2024, and therefore timely.

CONCLUSIONS OF LAW

1. Section 17b-2(6) of the 2024 Supplement to the Connecticut General Statutes 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. "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))
3. "The Fair Hearing official determines the issue of the hearing." Uniform Policy Manual ("UPM") § 1570.25(C)(2)(c)
4. "The Department considers the following issues: an action by the Department or failure by the Department to act, within the appropriate time limits described in this section, on the application for benefits, including: undue delay in reaching a decision on eligibility or in providing benefits." UPM § 1570.25(F)(1)(a)
5. "The Fair Hearing official renders a Fair Hearing decision in the name of the Department, in accordance with the criteria in this chapter, to resolve the dispute." UPM § 1570.25(C)(2)(k)

On [REDACTED] [REDACTED] 2024, the Department initiated payment of the Appellant's [REDACTED] 2023 Medicare Part B premium (\$164.90) to the SSA after a review revealed the Department failed to initiate payment once the MSP QMB benefits were retroactively approved for [REDACTED] 2023 on [REDACTED] [REDACTED] 2024, thus, the Appellant has not experienced a loss of benefits.

The Appellant's hearing issue has been resolved; therefore, there is no issue on which to rule. "When the actions of the parties themselves cause a settling of their differences, a case becomes moot." McDonnell v. Maher, 3 Conn. App. 336 (Conn. App. 1985), citing, Heitmuller v. Stokes, 256 U.S. 359, 362-3, 41 S.Ct. 522, 523-24, 65 L.Ed. 990 (1921).

The issue for which the Appellant had originally requested the hearing has been approved; there is no practical relief that can be afforded through an administrative hearing.

DISCUSSION

On [REDACTED] [REDACTED] 2023, the Department incorrectly closed the Appellant's medical benefits under the MSP QMB program effective [REDACTED] [REDACTED] 2023 without explanation resulting in a request for an administrative hearing. On [REDACTED] [REDACTED] 2023, the Department identified their error and regranted medical coverage under the MSP QMB program beginning [REDACTED] [REDACTED] 2024. However, the month of [REDACTED] 2023 remained closed. On [REDACTED] [REDACTED] 2024, although the Department attempted to correct the error and reopen the Appellant's MSP QMB benefits for [REDACTED] 2023, the Department failed. On [REDACTED] [REDACTED] 2024, the Department successfully corrected their error by regranted the Appellant's MSP QMB medical benefits back to [REDACTED] [REDACTED] 2023. The Department then notified the MBI Unit of the retroactive coverage and requested payment be sent to the SSA on behalf of the Appellant. However, the MBI Unit failed to act, and payment was not issued. Finally on [REDACTED] [REDACTED] 2024, the MBI Unit initiated payment to the SSA after the Fair Hearing official requested proof of the [REDACTED] 2023 payment from the Department since the Appellant had received reimbursement of his [REDACTED] 2024 payment from the SSA on or about [REDACTED] [REDACTED] 2024, but no reimbursement for [REDACTED] 2023.

Although there seemed to be a breakdown in the Department's communication and procedures surrounding the granting of medical benefits under the MSP QMB program, the Department has corrected their error and initiated [REDACTED] 2023 Medicare Part B premium payment. The Appellant's disappointment and frustration in this process is understandable, but at this time there is no further action to be done by the Department as reimbursement for the [REDACTED] 2023 premium to the Appellant will be made the SSA upon receipt of the Department's payment. Although the Appellant received reimbursement from the SSA for the [REDACTED] 2024 Medicare Part B premium payment within three weeks of the Department's [REDACTED] [REDACTED] 2023 action regranted the MSP QMB program effective [REDACTED] [REDACTED] 2024, this process can take up to 90 days as reported by the Department's MBI Unit.

DECISION

The Appellant's appeal is **Dismissed** as moot.

Lisa A. Nyren
Lisa A. Nyren
Fair Hearing Officer

CC: Theresa Deangelis, SSOM RO #52
Nicole Matos, SSOM RO #52
Selena Edwards, FHL #52

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.