

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

██████████, 2018
Signature Confirmation

Client ID # ██████████
Request # ██████████

NOTICE OF DECISION

PARTY

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██████████
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PROCEDURAL BACKGROUND

On ██████████, 2017, the Department of Social Services (the “Department”) sent ██████████ (the “Appellant”) a Notice of Action (“NOA) granting her Medicaid benefits under the Medically Needy for Aged, Blind, and Disabled Program (“MAABD”) under a spenddown effective ██████████ 2017.

On ██████████, 2017, the Appellant requested an administrative hearing to contest the Department’s action.

On ██████████, 2017, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████, 2018.

On ██████████, 2018, 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.

The following individuals were present at the hearing:

██████████, Appellant
Garfield White, Department’s Representative
Lisa Nyren, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Appellant must meet a spenddown to become eligible for MAABD coverage.

FINDINGS OF FACT

1. The Appellant receives Medicaid under a spenddown. (Hearing Record)
2. The Appellant is age [REDACTED] born on [REDACTED]. (Appellant's Testimony)
3. The Appellant lives in [REDACTED], Connecticut. (Appellant's Testimony)
4. The Appellant receives Social Security Retirement ("SSA") benefits of \$659.00 per month. (Appellant's Testimony, Exhibit 2: MAABD – Income Test, and Exhibit 4: Notice of Action)
5. The Appellant collects \$500.00 per month from a roomer. The roomer rents a bedroom from the Appellant and has use of the home. The roomer must provide his/her own food. (Appellant's Testimony)
6. The Appellant receives Medicare Part A and Medicare Part B benefits from the Social Security Administration. (Appellant's Testimony)
7. The Appellant receives Medicaid under the Medicare Savings Plan that pays the Appellant's Medicare Part B premiums monthly. (Department Representative's Testimony and Exhibit 4: Notice of Action)
8. The medically needy income limit ("MNIL") under the MAABD program is \$523.38. (Exhibit 2: MAABD – Income Test and Department Representative's Testimony)
9. Effective [REDACTED] 2017, the Department transferred the Appellant's Medicaid benefits from the Husky C MAABD program to Husky C MAABD spenddown. The Department determined the Appellant eligible for MAABD under a spenddown totaling \$1,483.10 for the period [REDACTED] 2017 through [REDACTED], 2018. (Exhibit 4: Notice of Action)
10. On [REDACTED], 2017, the Department notified the Appellant that her medical benefits under the Husky C program were changed to another program that will give you the same benefits. She would have to submit medical bills totaling \$1,483.10 to meet a spenddown in order to become eligible for MAABD coverage for the six-month spenddown period [REDACTED] 2017 through [REDACTED] 2018. (Exhibit 4: Notice of Action)

11. The Appellant does not have any outstanding medical debt. (Appellant's Testimony)

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. Uniform Policy Manual ("UPM") § 2525.15(B) provides that to meet the age requirement for State Supplement and related Medicaid based on old age, the individual must be sixty-five (65) years of age or older.
3. The Department correctly determined the Appellant meets the age requirement under the MAABD program.
4. UPM § 2540.96(A) provides for the MAABD coverage group to include individuals who:
 1. Meet the MAABD categorical eligibility requirements of age, blindness or disability; and
 2. Are not eligible as categorically needy; and
 3. Meet the medically needy income and asset criteria.
5. UPM § 2540.96(C) provides that the Department uses the MAABD medically needy income and asset criteria to determine eligibility under this coverage group, including:
 1. Medically needy deeming rules;
 2. The Medically Needy Income Limit ("MNIL");
 3. The income spend-down process;
 4. The medically needy asset limits.
6. UPM § 4530.15(A)(1) provides that a uniform set of income standards is established for all assistance units who do not qualify as categorically needy.

UPM § 4530.15(A)(2) provides that the MNIL of an assistance unit varies according to:

 - a. the size of the assistance unit; and
 - b. the region of the state in which the assistance unit resides.

7. UPM § 4530.15(B) provides that the medically needy income limit is the amount equivalent to 143 percent of the benefit amount that ordinarily would be paid under the AFDC program to an assistance unit of the same size with no income for the appropriate region of residence.
8. The Department correctly determined that the MNIL for the Appellant's assistance unit for one person as \$523.38.
9. UPM § 5050.73(A)(1) provides for Roomer and Boarder Income for MAABD.
 1. Payments received from roomers and from boarders are treated as earned income acquired through self-employment.
 2. The total monthly amount is reduced by:
 - a. The Department's standard allowances for expenses associated with providing room and/or board as modified from time to time and found in P-5050 or the actual expenses if greater;
 - b. The appropriate deduction for personal employment expenses; and
 - c. A disregard for incentive earnings if appropriate.

UPM § P-5050.25 provides that self-employment income earned by an AFDC, AABD, or MA assistance unit member through providing room, board, or both is subjected to the following calculation to determine the amount of applied earned income:

1. Reduce the total monthly amount of self-employment income by one of the following:
 - a. In situations where one person is paying for: a room subtract \$40.00; board only, subtract \$75.00; both room and board, subtract \$115.00.
 - b. When more than 1 person is paying for the above arrangements, add to the above amounts the following: \$20.00 per additional person for room-only arrangements; \$40.00 per additional person for board-only arrangements; \$60.00 per additional person for room and board arrangements.
2. Add the remaining gross earned income to all other gross income earned by the unit member and continue to calculate applied income according to 5045-Calculation of Applied income.

UPM § 5035.10(B)(1) provides that personal employment expenses are not allowed as deduction to those applying for or receiving assistance to the disabled or aged.

UPM § 5030.10(A) provides that except for determining AABD eligibility and benefit levels for assistance units residing in long term care facilities, earned income disregards are subtracted from the assistance unit's

monthly total available gross earned income. Total available gross earned income is counted in full in determining AABD eligibility and benefit levels for assistance units residing in long term care facilities.

UPM § 5030.10(B) provides that the following amounts are disregarded from income earned by the groups indicated:

1. \$65.00 per month plus $\frac{1}{2}$ of the remaining income is disregarded from the earnings of:
 - a. Applicants for assistance to the disabled and aged;
 - b. Recipients of assistance to the aged who did not receive assistance to the disabled or blind in the month before they became 65 years of age.
2. \$65.00 per month plus $\frac{1}{2}$ of the income remaining after impairment related expenses are deducted is disregarded from the earnings of:
 - a. Recipients of assistance to the disabled;
 - b. Recipients of assistance to the aged who received assistance to the disabled in the month before they became 65 years of age.
3. \$85.00 per month plus $\frac{1}{2}$ of the remaining income is disregarded from the earnings of:
 - a. Applicants for and recipients of assistance to the blind;
 - b. Recipients of assistance to the aged who received assistance to the blind in the month before they became 65 year of age.

UPM § 5045.10(A) provides that except for determining AABD eligibility and benefit amounts for individual residing in long term care facilities, applied earned income is calculated for those who are aged or disabled by reducing the monthly earnings by the following in the order presented:

1. Self-employment expenses, when applicable;
2. A disregard of \$65.00;
3. Impairment related expenses for those recipients who are eligible for them;
4. $\frac{1}{2}$ of the remaining difference;
5. Any earned income an individual receives and uses to fulfill an approved plan to achieve self-support if that individual is disabled and under age 65 or is disabled and received SSI as a disabled person the month prior to reaching age 65. (Cross references: 5030.10 Income Disregards, 5035.08 Income Deductions, 5035.10 Employment Deductions)

10. The Department incorrectly determined the Appellant's roomer income as unearned income. The Appellant's roomer income is counted as self-employment earned income.
11. The Department incorrectly determined the Appellant's monthly gross earned income as \$00.00. The Appellant's monthly gross earned income is \$500.00.

12. The Department incorrectly determined the Appellant's applied earned income as \$00.00 per month. The correct amount of applied earned income is \$197.50. {(\$500.00 self-employment income - \$40.00 one person one room/self-employment expense - \$65.00 earned income disregard) - ½ remaining disregard} = \$197.50 applied earned income)
13. UPM § 5050.13(A)(1) provides that income from Social Security is treated as unearned income in all programs.
14. UPM § 5025.05(B)(1) provides that if income is received on a monthly basis, a representative monthly amount is used as the estimate of income.
15. The Department correctly determined the Appellant's SSA benefit as \$659.00 per month.
16. The Department incorrectly determined the Appellant's monthly gross unearned income as \$1,159.00. The Appellant's correct monthly gross unearned income is \$659.00.
17. UPM § 5050.13(A)(2) provides that Social Security income is subject to an unearned income disregard in the AABD and MAABD programs.

UPM § 5030.15(A) provides that except as provided in section 5030.15(D), unearned income disregards are subtracted from the unit member's total gross monthly unearned income.
18. UPM § 5030.15(C)(2)(a) provides that all of the disregards used in the AABD programs are used to determine eligibility for MAABD.
19. UPM § 5030.15(B)(1)(a) provides for the standard disregard as \$339.00 (effective 1/1/17) for those individuals who reside in their own homes in the community or who live as roomers in the homes of others and those who reside in long term care facilities, shelters for the homeless or battered women shelters. Effective January 1, 2008 and each January 1st thereafter, this disregard shall be increased to reflect the annual cost of living adjustment used by the Social Security Administration.
20. The Department correctly determined the standard disregard as \$339.00.
21. UPM § 5045.10(C)(1) provides that except for determining AABD eligibility and benefit amounts for individuals residing in long term care facilities, applied unearned income is calculated by reducing the gross unearned income amount by the appropriate disregard based upon living arrangements.

22. The Department incorrectly calculated the Appellant's applied unearned income as \$820.00. The correct applied unearned income is \$320.00. (\$659.00 SSA - \$339.00 standard disregard = \$320.00)
23. UPM § 5045.10(E) provides that the assistance unit's total applied income is the sum of the unit's applied earnings, applied unearned income, and the amount deemed.
24. The Department incorrectly calculated the Appellant's total applied income as \$820.00. The correct applied income is \$517.50. (\$197.50 applied earned income + \$320.00 applied unearned income + \$00.00 deemed income = \$517.50 total applied income)
25. UPM § 5520.20(B)(5)(a) provides that the total of the assistance unit's applied income for the six-month period is compared to the total of the MNIL's for the same six-months: when the unit's total applied income equals or is less than the total MNIL's the assistance unit is eligible.
26. The Department incorrectly determined that the Appellant's monthly applied income of \$517.50 exceeded the monthly MNIL of \$523.38 for the Medicaid program. The Appellant's monthly applied income of \$517.50 does NOT exceed the MNIL of \$523.38.
27. The Department incorrectly determined that the Appellant must meet a spenddown in order to receive MAABD coverage.

DECISION

The Appellant's appeal is granted.

ORDER

1. The Department must correctly apply the Appellant's roomer income as earned income under self-employment and allow for the appropriate self-employment and earned income deductions and disregards as outlined under the Conclusions of Law #'s 9 – 12 effective [REDACTED] 2017 and ongoing months when calculating eligibility under the MAABD program.
2. The Department must recalculate the Appellant's eligibility under the MAABD program effective [REDACTED] 2017.
3. Compliance is due [REDACTED] 2018.

Lisa A. Nyren

Lisa A. Nyren
Hearing Officer

CC: Musa Mohamud, Social Services Operations Manager
Judy Williams, Social Services Operations Manager
Jay Bartolomei, Eligibility Services Supervisor
Garfield White, Fair Hearing Liaison

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.