

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

██████████ 2015
SIGNATURE CONFIRMATION

CLIENT ID #: ██████████
HEARING ID#: 684435

NOTICE OF DECISION

PARTY

██████████
c/o ██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2015, the Department of Social Services (the "Department") sent ██████████ ("Appellant") a Notice of Applied Income stating that she must pay \$231.00 per month towards the cost of her care effective ██████████ 2013.

On ██████████ 2015, ██████████ Conservator for the Appellant, requested an administrative hearing to contest the determination of the amount of applied income that she has to pay towards her care.

On ██████████ 2015, the Office of Legal Counsel, Regulations, and Administrative Hearings, ("OLCRAH") sent a Notice of Administrative Hearing scheduling a hearing for ██████████ 2015.

On ██████████ 2015, 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 telephone to the Appellant's home and videoconference.

The following individuals were present at the hearing:

██████████ Conservator for the Appellant
Lea Chayes, Department's Representative (via videocall)
Karen Brown, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly determined the amount of the Appellant's monthly applied income.

FINDINGS OF FACT

1. As of ██████████ 2013, the Appellant was receiving Husky A for Children (F25) benefits. (Exhibit 1: Department's narrative notes)
2. The Appellant was in the care of the Department of Children and Families and did not have her own home or apartment in the community. (Exhibit 1)
3. On ██████████ 2013, the Hospital for Special Care admitted the Appellant. The Appellant's stay was expected to be less than six months. (Exhibit 1; Hearing Summary)
4. The Appellant is under the age of 21. (Record)
5. As of ██████████ 2013, the Appellant received \$291.00 per month in Social Security benefits. (Exhibit 3: Department's unearned income screens)
6. On ██████████ 2014, the Department switched the Appellant's medical coverage from Husky A F25 to X25 Medical group because the F25 program was discontinued. (Exhibit 1)
7. For the months of ██████████ and ██████████ 2015, the Appellant did not receive any income. (Exhibit 4: Medical financial eligibility screen)
8. On ██████████ 2015, the Department reviewed the Appellant's case and the Appellant was still institutionalized at Hospital for Special Care. (Hearing Summary)
9. On ██████████ 2015, the Department switched the Appellant's Medicaid coverage group from Husky A for Children (F25) to HUSKY A for Child in Long Term Care (T01). (Exhibit 2: Notice ██████████-15)
10. On the ██████████ 2015 notice, the Department notified the Appellant that her monthly applied income amount is \$231.00 that must be paid towards the cost of her care, effective ██████████ 2013. (Exhibit 2)
11. On ██████████ 2015, the Department was notified that ██████████ was appointed as one of the Appellant's co-conservators. (Exhibit 1)
12. The Appellant receives a monthly allowable deduction of \$60.00 as her personal needs allowance ("PNA"). (Exhibit 4)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes (“CGS”) authorizes the Commissioner of the Department of Social Services to administer the Medicaid program.
2. Uniform Policy Manual (“UPM”) Section 5000.01 provides the following definitions:

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.

Applied income is that portion of the assistance unit's countable income that remains after all deductions and disregards are subtracted.

Counted income is that income which remains after excluded income is subtracted from the total of available income.

Deductions are those amounts which are subtracted as adjustments to counted income and which represent expenses paid by the assistance unit.

Disregards are those amounts which are subtracted as standard adjustments to countable income and which do not represent expenses paid by the assistance unit.

3. UPM Section 2540.60.A provides, in part, who is included in the category of HUSKY A for children in long term care:

This group includes residents of long term care facilities (LTCF) who:

1. reside in the LTCF for at least thirty (30) consecutive days; and
2. have income within a special income level; and
3. meet any of the following criteria:
 - a. are under twenty-one (21) years of age; or
4. The Department correctly switched the Appellant's medical coverage category group from HUSKY A for Children to HUSKY A for children in long term care because the Appellant has been in a long term care facility for more than 30 days, is within the income limit and is under the age of 21.
5. UPM Section 5005.C provides that the Department computes applied income by subtracting certain disregards and deductions, as described in this section, from counted income.

6. UPM Section 5005.D provides that the Department uses the assistance unit's applied income to determine income eligibility and to calculate the amount of benefits.
7. The Department correctly determined the Appellant's total monthly gross unearned income as \$291.00 for [REDACTED] 2013.
8. The Department correctly determined that for the months of [REDACTED] and [REDACTED] 2015, the Appellant did not have any unearned income.
9. UPM Section 5035.20 provides that for residents of long term care facilities (LTCF) and those individuals receiving community-based services (CBS) when the individual does not have a spouse living in the community, total gross income is adjusted by certain deductions to calculate the amount of income which is to be applied to the monthly cost of care.
10. As a resident of a LTCF, the Appellant is responsible for contributing a portion of her income towards the monthly cost of her care.
11. UPM Section 5035.20.B provides that the following monthly deductions are allowed from the income of assistance units in LTCF's:
 - (1) for veterans whose VA pension has been reduced to \$90.00 pursuant to P.L. 101-508, for spouses of deceased veterans whose pension has been similarly reduced pursuant to P.L. 101-508, as amended by Section 601 (d) of P.L. 102-568, a personal needs allowance equal to the amount of their VA pension and the personal needs allowance described in 2. below;
 - (2) a personal needs allowance of \$50.00 for all other assistance units, which, effective July 1, 1999 and annually thereafter, shall be increased to reflect the annual cost of living adjustment used by the Social Security Administration;
 - (3) an amount of income diverted to meet the needs of a family member who is in a community home to the extent of increasing his or her income to the MNIL which corresponds to the size of the family;
 - (4) Medicare and other health insurance premiums, deductibles, and coinsurance costs when not paid for by Medicaid or any other third party;
 - (5) costs for medical treatment approved by a physician which are incurred subsequent to the effective date of eligibility and which are not covered by Medicaid;

- (6) expenses for services provided by a licensed medical provider in the six month period immediately preceding the first month of eligibility providing the following conditions are met:
 - a. the expenses were not for LTCF services, services provided by a medical institution equivalent to those provided in a long term care facility, or home and community-based services, when any of these services were incurred during a penalty period resulting from an improper transfer of assets; and
 - b. the recipient is currently liable for the expenses; and
 - c. the services are not covered by Medicaid in a prior period of eligibility.

- (7) the cost of maintaining a home in the community for the assistance unit, subject to certain conditions.
 - a. the amount is not deducted for more than six months; and
 - b. the likelihood of the institutionalized individual's returning to the community within six months is certified by a physician; and
 - c. the amount deducted is the lower of either:
 - (1) the amount the unit member was obligated to pay each month in his or her former community arrangement; or
 - (2) \$650 per month if the arrangement was Level 1 Housing; or
 - (3) \$400 per month if the arrangement was Level 2 Housing; and

12. The Department correctly provided a \$60.00 personal needs allowance (PNA) deduction.

13. UPM Section 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.

14. The Department correctly calculated the Appellant's monthly applied income by applying all appropriate deductions and disregards to calculate the amount of income which is to be applied towards her monthly cost of care.
15. UPM Section 5045.20 provides that assistance units who are residents of Long Term Care Facilities (LTCF) or receiving community based services (CBS) are responsible for contributing a portion of their income toward the cost of their care. For LTCF cases only, the amount to be contributed is projected for a six month period.
16. UPM Section 5045.20.A provides that the amount of income to be contributed is calculated using the post-eligibility method starting with the month in which the 30th day of continuous LTCF care or receipt of community-based services occurs, and ending with the month in which the assistance unit member is discharged from the LTCF or community-based services are last received.
17. UPM Section 5045.20.B.1.b provides that total gross income is reduced by post-eligibility deductions (Cross reference: 5035-"Income Deductions") to arrive at the amount of income to be contributed.
18. The Department correctly calculated, effective [REDACTED] 2013, the Appellant's monthly applied income of \$231.00 (\$291.00 unearned income minus \$60.00 PNA).
19. The Department correctly determined that the Appellant does not have an applied income obligation for [REDACTED] and [REDACTED] 2015 since she did not receive any income.
20. UPM Section 5045.20.D provides that the difference between the assistance unit's contribution and the Medicaid rate of the LTCF or CBS is the amount of benefits paid by the department to the facility or provider organization on the unit's behalf.
21. The Appellant's monthly applied income of \$231.00 must be paid towards the cost of her care, effective [REDACTED] 2013.

DISCUSSION

The regulation requires that residents of LTCF are responsible for contributing a portion of their income towards the cost of their care. In the Appellant's case, she resides in a LTCF, and therefore, she must contribute a portion of her income towards the cost of her care.

The Department initially granted the Appellant medical assistance under the F25 HUSKY and kept that coverage in place even after finding out that she was placed in a LTCF, but it was believed that she would be there for less than six months. When the

Department reviewed the case in [REDACTED] 2015, it discovered that she was still in a LTCF and as such, her coverage switched to HUSKY LTCF coverage, and she would be subject to applying a portion of her income towards her cost of care. Because she did not receive income in [REDACTED] and [REDACTED] 2015, she does not owe any applied income for those months. Since her Social Security benefits increased as of [REDACTED] 2015, it appears that the Department recalculated her applied income and it increased to reflect the increase in benefits.

DECISION

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

A handwritten signature in black ink that reads "Karen B" with a long horizontal line extending to the right.

Karen Brown
Hearing Officer

Cc: Phil Ober, Operations Manager, New Britain RO
Peter Bucknall, Operations Manager, New Britain RO

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.