

**Delina741#*STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3725**

[REDACTED], 2021
Signature Confirmation

CL ID # [REDACTED]
Request # [REDACTED]

NOTICE OF DECISION

PARTY

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED], 2020, the Department of Social Services (the "Department") issued [REDACTED] (the "Appellant") a Notice of Action denying him Aid to the Aged, Blind or Disabled (AABD) State Supplement assistance.

On [REDACTED], 2020, the Appellant submitted to the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH"), a request for an administrative hearing to contest the Department's action to deny assistance.

On [REDACTED] 2020, OLCRAH issued a notice scheduling the administrative hearing for [REDACTED] 2020.

On [REDACTED], 2020, the Appellant requested to reschedule the administrative hearing.

On [REDACTED] 2020, the OLCRAH issued a notice scheduling the administrative hearing for [REDACTED], 2021.

On [REDACTED], 2021, in accordance with Connecticut General Statutes § 17b-60, §17b-61 and § 4-176e to § 4-184, inclusive, the Department held an administrative hearing. The following individuals were present at the hearing:

Attorney [REDACTED], Appellant's Authorized Representative
Attorney [REDACTED], Appellant's Authorized Representative
John DiLeonardo, Eligibility Services Specialist, Department's Representative
Roberta Gould, Hearing Officer

At the request of the Department the hearing record remained open for the submission of additional evidence. The hearing record closed on [REDACTED] 2021.

STATEMENT OF ISSUE

The issue to be decided is whether the Department correctly denied the Appellant's AABD State Supplement benefits.

FINDINGS OF FACT

1. On [REDACTED], 2020, the Appellant applied for AABD State Supplement assistance for a Licensed Boarding Facility. (Exhibit 1: Application for assistance and Hearing summary)
2. The Appellant resides at [REDACTED] Boarding Home. (Hearing record)
3. The Appellant indicated on the application for assistance that his Authorized Representative ("AREP") is [REDACTED] and that he receives a monthly pension of \$663.51 per month. (Exhibit 1)
4. On [REDACTED], 2020, the Department sent a W-1348 Verification We Need form to the Appellant's AREP requesting verification of the Appellant's gross pension, bank statements, and a W-265 admission notice to the Licensed Boarding Facility. The Department indicated that there is no eligibility for Title 19 Long Term Care benefits in any month in which counted assets exceed \$1,600.00. This information was due by [REDACTED] 2020. (Exhibit 9: W-1348 dated [REDACTED])
5. On [REDACTED], 2020, the Department received some information from the Appellant. His combined account balances were over the asset limit for AABD State Supplement assistance. The Department sent a new W-1348 Verification We Need form to the Appellant's AREP requesting documentation of [REDACTED] Savings Bank account statements. This information was due by [REDACTED] 2020. (Exhibit 8: Case notes and Exhibit 10: W-1348 dated [REDACTED])
6. On [REDACTED], 2020, the Department received an email and a signed W-298 authorized representative form from Attorney [REDACTED], AREP. (Exhibit 8)
7. On [REDACTED], 2020, the Department received documentation of purchase for a car, proof of IRA closure, and a printout of bank account activity that did not show the account balances. The Department sent a new W-1348 Verification We Need form to the Appellant's AREP requesting fully labeled bank account statements and a W-265 admission notice for [REDACTED] Boarding facility. This information was due by [REDACTED], 2020. (Exhibit 8 and Exhibit 11: W-1348 dated [REDACTED])
8. On [REDACTED], 2020, the Department received additional documentation for bank accounts and determined that the Appellant had reduced his assets to within the \$1,600.00 Medicaid asset limit, but that his combined pension and Social Security

("SSA") income exceeded the gross income limit for the AABD State Supplement program. (Exhibit 8)

9. Neither the Appellant nor his AREP reported that he was receiving Social Security benefits to the Department. (Hearing record)
10. The Appellant receives a gross pension of \$663.51 per month as well as gross SSA of \$1,803.00 per month. (Exhibit 4: Unearned income verification and Hearing summary)
11. On [REDACTED], 2020, the Department denied the Appellant's application for AABD State Supplement assistance because his monthly gross income is more than the income limit for the program. The Department granted the Appellant HUSKY C Medicaid assistance effective [REDACTED] 2020, the month in which his assets were reduced to within the Medicaid asset limit. (Exhibit 2: Notice of action dated [REDACTED] and Exhibit 8)
12. In [REDACTED] of 2020, the Appellant set up a pooled trust, into which his monthly income is deposited. (AREP's testimony)
11. On [REDACTED] 2020, the Appellant submitted a new application for AABD State Supplement assistance for a Licensed Boarding Facility. (AREP's testimony and Department's testimony)
12. The Department granted AABD State Supplement Boarding Home assistance effective [REDACTED] 2020. (Department's testimony)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the Aid to the Aged, Blind, and Disabled (AABD) State Supplement program.
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 Connecticut Supp. 175, 178 (1994) (citing Connecticut General Statute § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Connecticut 601, 573 A.2d 712 (1990)).
2. Uniform Policy Manual ("UPM") § 4520.10(A)(1) provides that "rated housing facilities include:
 - a. licensed boarding facilities; and
 - b. New Horizons; and
 - c. adult family living homes approved by the Department."

The Department correctly determined that the Appellant is residing in a licensed

boarding facility.

3. UPM § 1505.10(D)(1) provides that “For AFDC, AABD and MA applications, except for the Medicaid coverage groups noted below in 1510.10 D.2, the date of application is considered to be the date that a signed application form is received by any office of the Department.”
4. UPM § 1560.05(A) provides that “with the exception of residents of long term care facilities who are applying for AABD benefits, the beginning date of assistance in the AFDC and AABD programs is the date the Department receives a signed application, or the date all eligibility factors are met, whichever is later, as follows:
 1. The date the application is received is used as the beginning date of assistance when:
 - a. financial eligibility exists for the month of application; and
 - b. all categorical and technical eligibility requirements are met as of that date; and
 - c. procedural requirements are complied with as required during the application process.”

The Department correctly determined that the initial date of application for assistance was [REDACTED] 2020.

5. UPM § 1505.40(B)(5) provides for Delays Due to Insufficient Verification (AFDC, AABD, MA Only):
 - a. Regardless of the standard of promptness, no eligibility determination is made when there is insufficient verification to determine eligibility when the following has occurred:
 - (1) the Department has requested verification; and
 - (2) at least one item of verification has been submitted by the assistance unit within a time period designated by the Department, but more is needed.
 - b. Additional 10 day extensions for submitting verification shall be granted, as long as after each subsequent request for verification at least one item of verification is submitted by the assistance unit within each extension period.

The Department correctly sent the Appellant and his AREP new requests for verification and allowed additional 10 day extensions after receiving some of the requested information.

6. UPM § 5520.10(A) provides for income eligibility tests in the AABD State Supplement

Assistance program:

A. Gross Income Eligibility Test

1. If the needs group comprises only the individual applicant or recipient, the assistance unit's total gross monthly income is compared to the gross monthly income limit of 300% of the maximum SSI benefit for an individual who has no income and lives in his or her own home.
2. If the needs group comprises both spouses, the total gross monthly Income of both the applicant or recipient and his or her spouse is compared to the gross monthly income limit of 600% of the maximum SSI benefit for an individual who has no income and lives in his or her own home.
3. If the amount of the gross income exceeds the limit used, there is no eligibility for the individual or for either member of the couple for whom eligibility is being determined.
4. If the amount of the gross income equals or is less than the limit used, the applied income test is used.

On [REDACTED], 2020, the Department correctly denied the Appellant's application for AABD State Supplement assistance because it determined that his monthly gross income was more than the income limit for the program (\$783.00 maximum SSI benefit x 300 % = \$2,349.00 income limit) (\$663.51 gross pension + \$1,803.00 gross SSA = \$2,466.51 monthly income).

The Department correctly granted the Appellant's new application for AABD State Supplement assistance effective [REDACTED] 2020, the date a new application and documentation of a pooled trust into which his monthly income is deposited was received by the Department.

DECISION

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



Roberta Gould
Hearing Officer

Pc: Rachel Anderson, Social Services Operations Manager, DSS New Haven
Cheryl Stuart, Social Services Operations Manager, DSS New Haven
Lisa Wells, Social Services Operations Manager, DSS New Haven
John DiLeonardo, Eligibility Services Specialist, DSS New Haven

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 shall 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. Even if a reconsideration has been requested, there are still only **45** days to file an appeal. 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 his 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.