

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 No # ██████████
Request # 741159

NOTICE OF DECISION

PARTY

██████████
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██████████
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PROCEDURAL BACKGROUND

On ██████████ 2015, the Department of Social Services - ("the Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") approving his Husky C Spend-down for the Aged, Blind or Disabled effective ██████████ 2015.

On ██████████ 2015, the Appellant requested an administrative hearing to contest the effective date of the Spend-down activation.

On ██████████ ██████████ 2015, the Office of Legal Counsel, Regulations and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for ██████████ 2015.

On ██████████ ██████████ 2015, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a re-schedule notice and scheduled the administrative hearing for ██████████ 2015.

On ██████████ 2015, 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
Elsie Fowler, Department's Representative,
Almelinda McLeod, Hearing Officer

The hearing record was held open for the submission of additional evidence. On [REDACTED] 2015 the hearing record was closed.

STATEMENT OF THE ISSUE

The first issue to be decided is whether the Department correctly processed his medical expenses towards the Spend-down.

The second issue is whether the Department correctly rejected the nutritional supplemental drinks receipts to apply towards the spend-down.

FINDINGS OF FACT

1. On [REDACTED] 2015, the Appellant re-newed his application for Medicaid Husky C Spend-down for the period from [REDACTED] 2015 to [REDACTED] 2016. (Exhibit # 2, Narrative entry)
2. The Appellant is a household of one and resides in [REDACTED], Ct. (Exhibit #4, Assistance Status screen and Hearing record)
3. The Appellant receives \$926.00 from Social Security Disability (“SSD”) from the Social Security Administration. (Exhibit #3 – Unearned Income Screen)
4. The Appellant is active on the Qualified Beneficiaries Program (“QMB”). The Department pays for his Medicare part B premiums. (Exhibit 1, Narrative and Exhibit #13, Third party Liability 1-[“TPL1”]).
5. The Appellant has no other source of income other than the Social Security disability. (Appellant testimony)
6. As of [REDACTED] 2015, the Unearned Income (“UINC”) disregard is \$337.00. (Exhibit 7, Income limits & Standards chart, Region B)
7. The Net Income standard or the Medically Needy Income Limit (“MNIL”) for Husky C Medicaid in Region B is \$ 523.38. (Exhibit # 2, Medical Financial Eligibility Screen (“MAFI”) and Exhibit 7, Income limits chart)
8. The Department determined that the Appellant has a Medicaid spend-down of \$ 393.72. See the following calculation:

Social Security Disability ("SSD")	\$926.00
Minus Unearned Income disregard	- 337.00
Equals Net Unearned Income	= 589.00
Minus Net Income Standard (MNIL)	- 523.38
Equals Excess Income	= 65.62
Multiply by 6 months for total spend-down	= 393.72

9. The Appellant has hypertension, diabetes, hyperlipidemia and peripheral vascular disease. (Exhibit 9, Doctor's note dated [REDACTED]/15 and Exhibit 10- Doctor's note dated [REDACTED] 2015.)
10. His attending physician recommends healthy foods low in salt, simple sugars, processed carbs and high in fiber. A diet high in unprocessed vegetables, meats and fruit would meet his needs. (Exhibit 9, Doctor's note dated [REDACTED]/15 and Exhibit 10- Doctor's note dated [REDACTED] 2015.)
11. The Appellant testified he provided receipts for nutritional supplemental drinks for Glucerna, Boost, Ensure and Slim fast. They were not accepted because he needed a letter from his doctor stating that they were medically necessary. The Appellant stated he already provided 3 letters; two of which were produced for this hearing. See finding of facts 9 and 10. (Appellant's testimony)
12. The receipts submitted for this hearing did not indicate an expense for Glucerna, Boost, Ensure or Slim fast.
13. The Department determined the expenses for Glucerna, Boost, Ensure and Slim fast were not accepted because the Appellant's Doctor did not specify that these nutritional supplement drinks were necessary for his health. The Department referred to a Verification We Need form (W-1348) issued on [REDACTED] 2015 with a due date of [REDACTED] 2015 where the Department requested a Doctor's note specifically stating that these expenses were necessary due to medical reasons. (Exhibit 1, Narrative and Exhibit 11- Verification We Need form W-1348).
14. On [REDACTED] 2015, The Appellant submitted receipts for over the counter medications and medical supplies from Walmart, Olympia Sports and Target to the Department to be applied toward his spend-down balance. (Exhibit 8, Receipts)
15. On [REDACTED] 2015 The Department entered the Appellant's approved medical expense receipts from [REDACTED] [REDACTED] [REDACTED] and [REDACTED] 2015 totaling \$420.63 and activated the Appellant's Medicaid effective [REDACTED] 2015. (Exhibit 6, ("SDME") Spend-down Medical expenses , Exhibit 8, Receipts))

16. The Appellant testified the Department did not take an action to activate his spend-down until ██████████ 2015; As a result, his Medicaid was activated in ██████████ 2015, ██████████ 2016 and ██████████ 2016 and he lost the opportunity to use medical transportation earlier. (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") § 2540.01 (C) provides that individuals qualify for medical assistance ("MA") as medically needy if:
 1. Their income or assets exceed the limits of the Aid to Families with Dependent Children ("AFDC") or Aid to the Aged, Blind and Disabled ("AABD") programs; and
 2. Their assets are within the medically needy asset limit; and
 3. Their income either:
 - a. is within the Medically Needy Income Limit ("MNIL"); or
 - b. can be reduced to the MNIL by a spend-down of medical expenses.
3. UPM § 4530.15 (A) provides that a uniform set of income standards is established for all assistance units who do not qualify as categorically needy. It further states that the MNIL of an assistance unit varies according to the size of the assistance unit and the region of the state in which the assistance unit resides.
4. UPM § 4530.15 (B) pertains to the standard of assistance and provides that the medically needy income limit is the amount equivalent to 143 percent if the benefit amount that originally would be paid under the TFA program to an assistance unit of the same size with no income for the appropriate region of residence.
5. UPM § 5500.01 provides that a needs group is the group of persons comprising the assistance unit and certain other persons whose basic needs are added to the total needs of the assistance unit members when determining the income eligibility of the assistance unit.

6. **The Department correctly determined the Appellant is medically needy and is a household of one.**
7. **The Temporary family Assistance grant for one residing in Region B is \$366.00**
8. UPM 4510.10 (A) provides:
 1. The State of Connecticut is divided into three geographic regions on the basis of a similarity in the cost of housing.
 2. Separate standards of need are established for each state region.
 3. The standard of need which is applicable to a particular assistance unit is based on: a. the current region of residence; and b. the appropriate needs group size.
9. UPM § 4510.10 B pertains to the Regional Breakdown of the state by cities and towns. [REDACTED] is located in [REDACTED], Ct. [REDACTED] is part of Region B.
10. **The Department correctly determined the Appellant resided in Region B.**
11. **The MNIL for a household of one residing in Region B is \$523.38 effective [REDACTED], 2015. (\$366 x 143%).**
12. UPM § 5050.13 (A) (1) provides that Social Security and Veteran's Benefit are treated as unearned income for all programs.
13. **The Department correctly determined that the Appellant's total income was \$ 926.00 benefit from Social Security.**
14. UPM § 5050.13 (A) (2) provides that Social Security income and Veteran's Benefit is subject to unearned income disregards in the AABD and MAABD programs.
15. 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.
16. UPM § 5030.15 (B) (1) (a) provides that the disregard is \$337.00 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.

17. The Department correctly applied the standard unearned income disregard of \$ 337.00 per month to the Appellant's income.

18. The Department correctly determined the Appellant's applied income is \$589.00. (\$926.00 – 337.00).

19. UPM § 5520.20 (B) provides the following methods is used to determine the assistance unit's eligibility in the prospective period.

1. A six –month period for which eligibility will be determined is established to include the month of application and the five consecutive calendar months which follow.
2. The needs group which is expected to exists in each of the six months is established.
3. An MNIL is determined for each of six months is determined on the basis of:
 - a. The anticipated place of residency of the assistance unit in each of the six months; and
 - b. the anticipated composition of the needs group for each of the same six months.
4. The assistance unit's applied income is estimated for each of the six months.
5. 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:
 - a. when the unit's total applied income equals or is less than the total MNIL's the assistance unit is eligible;
 - b. when the unit's total applied income, is greater than the total MNIL's the assistance unit is ineligible until the excess income is offset through the spend-down process.

20. The Department correctly determined the Appellant's household income exceeds the MNIL by \$65.62 per month for the months of [REDACTED] 2015 through to [REDACTED] 2016.

21. The Department correctly determined the Appellant's six-month spend-down amount is \$393.72. (\$65.62 x 6 months).

22. The Department correctly determined the Appellant is ineligible for Medicaid until the excess income is offset through the spend-down process.

23. Section 174 of the Medical Services Policy § 174H II. a. provides for the payment of Nonlegend Drugs. The Department of Social Services will pay for all Over the Counter (O.T.C.) drugs listed on the Connecticut OTC Formulary, provided they are prescribed for a specific illness and / or condition by a licensed authorized practitioner.
24. UPM § 5520.25 (B) When the amount of the assistance unit's monthly income exceeds the MNIL, income eligibility for a medically needy assistance unit does not occur until the amount of excess income is offset by medical expenses. This process of offsetting is referred to as a spend-down.
25. UPM § 5520.25 (B) (1) provides that Medical expenses are used for a spend-down if they meet the following conditions:
- a. the expenses must be incurred by person whose income is used to determine eligibility;
 - b. any portion of an expense used for a spend-down must not be payable through third party coverage unless the third party is a public assistance program totally financed by the State of Connecticut or by a political subdivision of the State;
 - c. there must be current liability for the incurred expenses, either directly to the provider(s) or to a lender for a loan used to pay the provider(s) on the part of the needs group members;
 - d. the expenses may not have been used for a previous spend-down in which their use resulted in eligibility for the assistance unit.
26. UPM § 5520.25 (B) (3) provides Medical expenses are used in the following order of categories and, within each category, chronologically starting with the oldest bills:
- a. first, Medicare and other health insurance premiums, deductibles, or co-insurance charges. Medical insurance premium expenses which exist at the time of the processing of the application which are reasonably anticipated to exist for the six month prospective period are considered as a six-month projected total;
 - b. then, expenses incurred for necessary medical and remedial services recognized under State law as medical costs but not covered by Medicaid in Connecticut;
 - c. finally, expenses incurred for necessary medical and remedial services recognized under State law as medical costs and covered by Medicaid in Connecticut.

27. **The Department correctly determined the Glucerna, Boost, Ensure and Slim fast supplements were not a medical expense since the authorized practitioner did not write a prescription for supplemental drinks and the Doctor's note did not specify that they were medically necessary for his health.**
28. **The Department correctly applied the Appellant's over the counter medical expenses when using the receipts submitted for the months of [REDACTED] 2015 through to [REDACTED] 2015.**
29. **The Department correctly activated the Spend-down effective [REDACTED] 2015.**

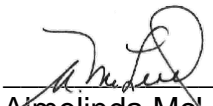
DISCUSSION

The Appellant testified that the Department did not process his medical expenses when he provided medical receipts to them in [REDACTED] 2015, thus losing the opportunity to use medical transportation earlier than the activation date. The evidence presented at this hearing show that the receipts provided to the Department indicated dates from [REDACTED] and [REDACTED] 2015. It is reasonable to conclude that the Department entered the approved bills as the receipts were presented, but was not able to activate the Appellant's spend-down until [REDACTED] 2015 when the spend-down balance was met.

In regards to the nutritional supplement drinks, the letter from the Appellant's physician did not indicate that these drinks were medically necessary for the Appellant's health; the letter only indicated that a healthy diet high in unprocessed vegetables, meats and fruit would meet his needs. Should the Appellant's medical condition change where the supplement drinks would become necessary for his health, the Appellant should obtain a prescription for those items from his doctor clearly stating the supplemental drinks are medically necessary for his health.

DECISION

The Appellant's appeal is DENIED.


Aimelinda McLeod
Hearing Officer

CC: Tonya Cook-Beckford, SSOM, Willimantic Regional Office

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 Legal Counsel, Regulations, and Administrative Hearings, 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 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.