

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

██████████ 2016  
Signature Confirmation

**NOTICE OF DECISION**

Client ID # ██████████  
Request # 744642

Cross Reference # 744639

**PARTY**

██████████  
██████████  
██████████

**PROCEDURAL BACKGROUND**

On ██████████ 2016, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") to advise her that her medical assistance under the HUSKY A program would end effective ██████████ 2016 and that she must meet a spend-down before medical assistance under the HUSKY C program can be authorized.

On ██████████ 2016, the Appellant requested an administrative hearing to contest the Department's determination that she must meet a spend-down before medical assistance can be authorized.

On ██████████ 2016, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling an administrative hearing for ██████████ 2016.

On ██████████ 2016, OLCRAH issued a notice rescheduling the Appellant's hearing to ██████████ 2016.

On ██████████ 2016, in accordance with Connecticut General Statutes § 17b-60, 17b-61 and § 4-176e to § 4-184, inclusive, OLCRAH held an administrative hearing.

The following individuals were present at the hearing:

██████████ Appellant, participated via telephone

Jessica Gulianello, Department's Representative  
Joseph Alexander, Department's Representative  
Pamela J. Gonzalez, Hearing Officer

### **STATEMENT OF THE ISSUE**

The issue is whether the Department correctly determined that the Appellant is subject to the spend-down offset process and must meet a spend-down before medical assistance can be authorized.

### **FINDINGS OF FACT**

1. The Appellant lives in [REDACTED] [REDACTED]. (Appellant's spouse's testimony)
2. The Appellant is age sixty-two. Her date of birth is [REDACTED] 1953. (Appellant's spouse's testimony)
3. The Appellant was receiving medical coverage under the HUSKY A program together with her spouse and daughter with whom she resides. (Eligibility Management System NARR screen print – Department's exhibit 1, Hearing record)
4. The Appellant's daughter, date of birth [REDACTED]/96, turned age nineteen on [REDACTED] 2015. (Appellant's testimony)
5. On [REDACTED] 2016, the Department issued a NOA discontinuing medical coverage under the HUSKY A program effective [REDACTED] 2016. (Notice dated [REDACTED] 2016 – Department's exhibit 2)
6. The Department sent supplemental forms to the Appellant for the purpose of determining eligibility for medical assistance under another coverage group. (HUSKY C Forms – Department's exhibit 3)
7. The Department timely received the Appellant's completed HUSKY C supplemental forms. (Department's exhibit 3, Department's representative's testimony)
8. The Appellant receives gross Social Security benefits in the monthly amount of \$2,365.90. (Eligibility Management System UINC screen print with BX verification code – Department's exhibit 9)
9. The Social Security Administration issues a gross benefit in the amount of \$1,884.90 per month to the Appellant's spouse. (Department's exhibit 9)

10. The Department verified the Appellant and her spouse's Social Security benefits through an automated benefit match with the Social Security Administration. (Department's representative's testimony)
11. The Appellant and her spouse receive Medicare coverage from the Social Security Administration. (Appellant's testimony)
12. On ██████████ 2016, the Department issued a NOA advising that the Appellant must meet a spend-down in the amount of \$17,042.34 before Medicaid may be authorized during the period of ██████████ 2015 – ██████████ 2106. (Department's exhibit 2)

### **CONCLUSIONS OF LAW**

1. Section 17b-2 of the Connecticut General Statutes, designates the Department of Social Services as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.
2. 42 CFR Section 435.118 discusses mandatory coverage for infants and children under age 19 and states in part, (b) the agency must provide Medicaid to children under age 19 whose household income is at or below the income standard established by the agency in its State plan, in accordance with paragraph (c) of this section.
3. 42 CFR Section 435.119 discusses mandatory coverage for individuals age 19 through 64 and states in part, (c) Coverage for dependent children. (1) A State may not provide Medicaid under this section to a parent or other caretaker relative living with a dependent child if the child is under the age specified in paragraph (c) (2) of this section, unless such child is receiving benefits under Medicaid, the Children's Health Insurance Program under subparagraph D of this chapter, or otherwise is enrolled in minimum essential coverage as defined in § 435.4 of this part. (2) For the purpose of paragraph (c)(1) of this section, the age specified is under the age of 19, unless the State had elected as of March 23, 2010 to provide Medicaid to individuals under age 20 or 21 under § 435.222 of this part, in which case the age specified is such higher age.
4. The Appellant's child reached age 19 in ██████████ 2015. She is no longer eligible to receive HUSKY A benefits. Because the Appellant's daughter is over age 19 and ineligible for HUSKY A benefits, the Appellant and her spouse are ineligible to receive benefits under this coverage group.
5. The Department was correct to discontinue HUSKY A medical assistance for the Appellant, her spouse and her daughter.

6. A determination of eligibility for assistance under other Medicaid coverage groups is done without requiring a separate application when:
  - b. Medicaid is denied or discontinued in regard to a particular coverage group. Uniform Policy Manual (“UPM”) 1505.10(E)(2)
7. The Department correctly evaluated for medical assistance eligibility under other coverage groups when assistance under HUSKY A was terminated.
8. 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. Uniform Policy Manual (“UPM”) § 4530.15(A)
9. The medically needy income limit is the amount equivalent to 143 percent of the benefit amount that ordinarily would be paid under the TFA program to an assistance unit of the same size with no income for the appropriate region of residence. UPM § 4530.15(B)
10. The Appellant resides in [REDACTED] which is in Region B. UPM § 4510.10 B.
11. The MNIL for two persons residing Region B is \$696.41. UPM § P-4530.15 2.
12. The Department correctly determined that the MNIL for the Appellant’s needs group is \$696.41.
13. Income from Social Security is treated as unearned income for all programs. UPM § 5050.13(A)(1)
14. The assistance unit in AABD and MAABD consists of only one member. In these programs, each individual is a separate assistance unit. An eligible spouse in the home applied for and receives assistance as a separate assistance unit. Any other member of the household who meets the eligibility requirements for the program is also a separate assistance unit of one. UPM § 2015.05
15. The Department correctly determined that the Appellant’s assistance unit consists of one member.
16. The needs group for an MAABD unit includes the following: a. the applicant or recipient; and b. the spouse of the applicant or recipient when they share the same home regardless of whether one or both are applying for or receiving assistance except in cases involving working individuals with disabilities. In these cases, the spouse (and children) are part of the needs group only in determining the cost of the individual’s premium for medical coverage (Cross Reference: 2540.85). UPM § 5515.05

17. The Department correctly determined that the Appellant's needs group size is two.
18. The income limit used to determine income eligibility is the limit for the number of persons in the needs group. UPM § 5515.10(C)
19. The Department correctly determined that the income limit used in this case to determine eligibility is \$696.41.
20. The Department deems income from the spouse of an MAABD applicant or recipient if he or she is considered to be living with the assistance member, except in cases involving working individuals with disabilities. In these cases, spousal income is deemed only in determining the cost of the individual's premium for medical coverage (Cross reference: 2540.85)
21. The Department correctly determined that the Appellant's total countable monthly unearned income was \$4,210.80 for the period of [REDACTED] 2015 – [REDACTED] 2016.
22. Social Security income is subject to unearned income disregards in the AABD and MAABD programs. UPM § 5050.13(A)(2)
23. Except as provided in section 5030.15 D., unearned income disregards are subtracted from the unit member's total gross monthly unearned income. UPM § 5030.15(A)
24. The standard disregard is \$227.00 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 1<sup>st</sup> thereafter, this disregard shall be increased to reflect the annual cost of living adjustment used by the Social Security Administration. UPM § 5030.15(B)(1)(a)
25. The unearned income disregard increased to \$337.00 effective [REDACTED] 2015.
26. The Department correctly applied the standard unearned income disregard of \$674.00 per month to the Appellant's household's unearned income of \$4,210.80 (\$337.00 applied to the Appellant's unearned income and \$337.00 applied to her spouse's unearned income) for the period of [REDACTED] 2015 – [REDACTED] 2016, inclusive.
27. The assistance unit's monthly net income for the period of [REDACTED] 2015 – [REDACTED] 2016 equals \$3,536.80.

28. 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. UPM § 5520.20(B)(1)
29. 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: UPM § 5520.20(B)(5)
30. 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. UPM § 5520.20(B)(5)(b)
31. The Appellant's applied income exceeds the MNIL by \$17,204.34 for the six month period of ██████████ 2015 – ██████████ 2016. (\$21,382.80 [\$3,563.80 x 6 months] - \$4,178.46 [\$696.31 MNIL limit for two persons x 6 months]).
32. The Department has correctly determined that the Appellant must meet a spend-down before medical assistance can be authorized.
33. 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. UPM § 5520.25(B)(1)
34. The Appellant and her spouse both pay Medicare premium costs each month which may be applied to the current spend-down.

### **DISCUSSION**

The Appellant was not present due to her physical inability to appear. Her spouse with whom she lives, represented her interests as well as his own at this hearing.

The Appellant's spouse testified that he is not contesting the amount of the spend-down. He is aggrieved that he and his wife can no longer continue to receive medical assistance together with their daughter.

There is no eligibility for the Appellant's daughter under the coverage group that they were receiving under as she has attained nineteen years of age. Accordingly, the Appellant and her spouse cannot continue to receive benefits with her under that coverage group.


The Appellant's spouse insisted that there are exceptions to the rules. I have no authority to grant any exceptions or to rule outside of the regulations. The Appellant may no longer receive medical assistance (under the HUSKY A coverage group) with her daughter who is over nineteen years old.

The Department's records indicate that Social Security is issuing benefits to the Appellant's spouse, however; he denies receipt of said benefits. He explained that he chooses not to receive Social Security payments because if he did, he would only have to apply that income to meet a spend-down.

The preponderance of evidence presented in this case indicates and I so find that the Appellant's spouse receives Social Security benefits. Since the Appellant's income exceeds the allowable Medicaid limit, a spend-down must be met before medical assistance may be authorized.

### **DECISION**

The Appellant's appeal is denied.

  
Pamela J. Gonzalez  
Hearing Officer

Copy: Poonam Sharma, SSOM, DSS R.O. # 30, Bridgeport  
Fred Presnick, SSOM, DSS R.O. #30, Bridgeport  
Yecenia Acosta, SSPM, DSS R.O. #30, Bridgeport  
Cheryl Stuart, SSPM, DSS R.O. #30, Bridgeport  
Jessica Gulianello, ESW, DSS R.O. #30, Bridgeport  
Joseph Alexander, ESSP, DSS R.O. #30, Bridgeport

### **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.