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

[redacted] 2016
Signature confirmation

Client: [redacted]
Request: 758880

NOTICE OF DECISION

PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted] 2016, the Department of Social Services (the "Department") issued [redacted] (the "Appellant") a notice that the agency had determined that he must meet a $5,957.34 spend-down in order to receive Medicaid coverage.

On [redacted] 2016, [redacted] the Appellant's attorney-in-fact, filed a request with the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") on the Appellant's behalf to dispute the Department's action.

On [redacted] 2016, the OLCRAH issued a notice to the Appellant, scheduling the administrative hearing for [redacted] 2016.

On [redacted] 2016, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, the OLCRAH held an administrative hearing. [redacted] (the "attorney-in-fact"), the holder of the Appellant's power of attorney, represented the Appellant's interests at the administrative hearing. The following individuals attended the administrative hearing:

[redacted] Appellant's attorney-in-fact (son)
[redacted] Appellant's witness (daughter)
[redacted] Appellant's witness (son-in-law)
Anthony Grant, Department's representative
John Dileonardo, Department's representative
Eva Tar, hearing officer

The administrative hearing record closed on [redacted] 2016.

STATEMENT OF ISSUE

The issue is whether the Department correctly determined that the Appellant must meet a spend-down in order to receive Medicaid coverage.

FINDINGS OF FACT

1. The Appellant has been a widower since [redacted] 2015. (Appellant's attorney-in-fact's testimony)

2. From [redacted] 2014 through [redacted] 2016, the Appellant was a state-funded Connecticut Home Care Waiver ("CHC")[1] program services recipient. (Department's Exhibit 2: Printout, [redacted]/16)

3. On [redacted] 2015, [redacted] admitted the Appellant as a resident. (Department's Exhibit 1: W-265, signed [redacted]/16)

4. The [redacted] is a licensed boarding home, located in [redacted] Connecticut. (Department's Exhibit 1)(Department's Exhibit 13: Notice Content-NCON, [redacted]/16)

5. On [redacted] 2015, the Department received the Appellant's Aid to the Aged, Blind, and Disabled ("AABD") program application. (Department's Exhibit 11: Printouts, [redacted]/16)(Department's Exhibit 13)

6. For eligible recipients, the AABD program is a cash assistance program that pays toward a recipient's room and board expenses in a licensed boarding home. (Department's representative's testimony)

7. The AABD program has a Medicaid coverage group ("Medicaid for the Aged, Blind and Disabled (MAABD)," "S-track," or "HUSKY C"),[2] associated with it. (Department's representative's testimony)

8. On [redacted] 2015, the Department granted the Appellant Medicare Savings Program ("MSP" or "Q01")[3] coverage, effective [redacted] 2016. (Department's Exhibit 3: Printouts, varying dates)

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[1] The Connecticut Home Care Waiver (CHC) serves individuals over the age of 65 who otherwise would require services in a nursing facility. The CHC program also provides two state-funded levels of service, which are not part of the Medicaid waiver. Clients in the state-funded categories receive home care services but not Medicaid." ***Publication 06-12: Medicaid Waivers: A Desk Guide for Eligibility Workers.***

[2] The Medicaid for the Aged, Blind, and Disabled ("MAABD") program is identified on the Department's computer system collectively as "S-track programs," i.e., "S02" or "S99," and in correspondence as "HUSKY C." The terms "S-track" and "S99" are used in testimony and in the agency's exhibits.

[3] The Medicare Savings Program ("MSP") is identified on the Department's computer system as "Q01." The term "Q01" appears in the agency's summary and exhibits.

9. For eligible recipients, the MSP pays for their monthly Medicare B premiums.

10. On [redacted] 2016, the Department discontinued the Appellant's CHC program services eligibility in order to transition the Appellant to the MAABD coverage group. (Department's Exhibit 15: Narrative-NARR, varying dates)(Department's representative's testimony)

11. The Appellant grosses $1,629.00 per month in Social Security benefits. (Department's Exhibit 13)

12. The Appellant grosses $131.82 per month in a [redacted] UTC pension. (Appellant's attorney-in-fact's testimony)

13. On [redacted] 2016, the Department issued a notice to the Appellant, granting the Appellant MAABD eligibility in a "spend-down" status for the period from [redacted] 2016 through [redacted] 2016; the "spend-down" to be met in order to activate his medical coverage equaled $5,587.34. (Department's Exhibit 13)

14. Based on the [redacted] 2015 AABD application date, the spend-down period should run from [redacted] 2015 through May [redacted] (Department's Exhibit 14: Printouts, varying dates)(Hearing record)

15. On [redacted] 2016, the Department issued a *Notice of Denial* to the Appellant, denying his [redacted] 2015 AABD application. (Department's Exhibit 13)

16. On [redacted] 2016, [redacted] discharged the Appellant. (Appellant's attorney-in-fact's testimony)

17. On [redacted] 2016, the Appellant moved into his attorney-in-fact (son)'s and daughter-in-law's residence. (Appellant's attorney-in-fact's testimony)

18. The Appellant's attorney-in-fact resides in [redacted], Connecticut. (Appellant's attorney-in-fact's testimony)

19. The Appellant owes the [redacted] a bill for $20,000.00 or more, for his stay at the licensed boarding home. (Appellant's attorney-in-fact's testimony)

20. The [redacted] bill owed by the Appellant is a bill for unpaid rent. (Department's representative's testimony)

21. The Appellant was responsible to pay $3,300.00 for hearing aids in [redacted] 2015. (Department's Exhibit 14: Printouts, varying dates)

22. The Appellant was responsible to pay $104.90 toward his Medicare B premium in [redacted] 2015. (Department's Exhibit 14)

23. The Department applied $3,404.90 in medical expenses toward the Appellant's spend-down to be met for the period from [redacted] 2015 through [redacted] 2016. (Department's Exhibit 14)

CONCLUSIONS OF LAW

1. 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. Conn. Gen. Stat. § 17b-2 (6).

2. The Commissioner of Social Services may make such regulations as are necessary to administer the medical assistance program. Such regulations shall include provisions requiring the Department of Social Services (1) to monitor admissions to nursing home facilities, as defined in section 19a-521, and (2) to prohibit the admission by such facilities of persons with primary psychiatric diagnoses if such admission would jeopardize federal reimbursements. Conn. Gen. Stat. § 17b-262.

3. The needs group for a 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. Uniform Policy Manual ("UPM") § 5515.05 (C)(2).

4. For the purposes of the MAABD coverage group, the Appellant is a needs group of one.

5. 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. UPM § 5000.01.

6. In consideration of income, the Department counts the assistance unit's available income, except to the extent that it is specifically excluded. Income is considered available if it is: 1. received directly by the assistance unit; or 2. received by someone else on behalf of the assistance unit and the unit fails to prove that it is inaccessible; or 3. deemed by the Department to benefit the assistance unit. UPM § 5005 (A).

7. Social Security and Veterans' Benefits: Income from these sources is treated as unearned income in all programs. UPM § 5050.13 (A)(1).

8. This income is subject to unearned income disregards in the AABD and MAABD programs. UPM § 5050.13 (A)(2).

9. For the purposes of the MAABD coverage group, the Appellant's monthly Social Security benefits are available income.

10. For the purposes of the MAABD coverage group, the Appellant's monthly pension is available income.

11. The Appellant's gross monthly income equals $1,760.82. [$1,629.00 plus $131.82]

12. The Department computes applied income by subtracting certain disregards and deductions, as described in this section, from counted income. UPM § 5005 (C).

13. The Department uses the assistance unit's applied income to determine income eligibility and to calculate the amount of benefits. UPM § 5005 (D).

14. 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).

15. Boarding Home Disregard. The disregard is $134.70 for those individuals who pay for room and board in licensed boarding homes or adult family living homes. 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. UPM §5030.15 (B)(1)(b).

16. The Boarding Home Disregard is $244.70 for Regions A, B, and C.

17. With respect to determination of the Appellant's eligibility for MAABD coverage group, the Appellant is subject to the Boarding Home Disregard of $244.70 for the period from [redacted] 2015 through [redacted] 2016.

18. In the period from [redacted] 2015 through [redacted] 2016, for the purposes of the MAABD coverage group, the Appellant's monthly applied income was $1,516.12. [$1,760.82, gross monthly income; minus $244.70, Boarding Home Disregard]

19. Standard Disregard: The 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 1st 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).

20. The Standard Disregard is $337.00 for Regions A, B, and C.

21. With respect to determination of the Appellant's eligibility for MAABD coverage group, the Appellant is subject to the Standard Disregard of $244.70 effective [redacted] 2016.

22. Effective [redacted] 2016, for the purposes of the MAABD coverage group, the Appellant's monthly applied income was $1,423.82. [$1,760.82, gross monthly income; minus $337.00, Boarding Home Disregard]

23. [redacted] Connecticut falls within Region B. UPM § 4510.10 (B)(2).

24. The [redacted] is located within Region B.

25. [redacted], Connecticut falls within Region C. UPM § 4510.10 (B)(3).

26. The Appellant's current residence is located within Region C.

27. A uniform set of income standards is established for all assistance units who do not qualify as categorically needy. UPM § 4530.15 (A)(1).

28. The Medically Needy Income Limit ("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. UPM § 4530.15 (A)(2).

29. The MNIL 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).

30. The MNIL for a needs group of one equals $523.38 in Region B effective July 1, 2014. UPM § P-4530.15 (2).

31. The MNIL for a needs group of one equals $523.38 in Region C effective July 1, 2014. UPM § P-4530.15 (2).

32. In the period from [redacted] 2015 through [redacted] 2016, the Appellant's monthly applied income exceeds the MNIL for a needs group of one (who is living in a licensed boarding home) in Region B by $992.74 per month. [$1,516.12, monthly applied income; minus $523.38 (MNIL)]

33. Effective [redacted] 2016, the Appellant's monthly applied income exceeds the MNIL for a needs group of one (who is rooming in the home of another) in Region C by $900.44 per month. [$1,423.82, monthly applied income (using standard disregard); minus $523.38 (MNIL)]

34. 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. UPM § 5520.25 (B).

35. As the Appellant's monthly income exceeds the MNIL, he is subject to the spend-down process.

36. 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).

37. 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 coinsurance 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 that are 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. UPM § 5520.25 (B)(3).

38. The debt that the Appellant owes the [redacted] for his stay at the licensed boarding home is not an allowable expense with respect to meeting his spend-down.

39. The $104.90 Medicare B premium the Appellant paid in December 2015 is an allowable expense with respect to meeting his spend-down.

40. The $3,300.00 for hearing aids that the Appellant paid in December 2015 is an allowable expense with respect to meeting his spend-down.

41. Income eligibility for the assistance unit exists as of the day when excess income is totally offset by medical expenses: a. Any portion of medical expenses used to offset the excess income are the responsibility of the unit to pay. b. Medical expenses which are recognized as payable under the State's plan and which are remained unpaid at the time eligibility begins are paid by the Department provided the expenses were not used to offset income. UPM § 5520.25 (B)(7).

42. The total amount of excess income for the entire six-month prospective period is offset by: a. medical expenses occurring prior to the prospective period in accordance

with guidelines set forth in 5520.25; and b. paid or unpaid medical expenses occurring in the prospective period in chronological order. UPM § 5520.30 (B)(1).

43. When the excess income is offset by medical expenses before the expiration of the prospective period, the assistance unit is eligible for the remaining balance of the six months. UPM § 5520.30 (B)(2).

44. When the amount of incurred expenses is insufficient to offset the excess income, no eligibility exists for that six-month period. UPM § 5520.30 (B)(3).

45. The Appellant's spend-down to be met from [redacted] 2015 through [redacted] 2016 equals $5,771.86. [$3,970.96 ([redacted] 2015 through [redacted] 2016) plus $1,800.88 ([redacted] 2016 through [redacted] 2016) = Monthly applied income in excess of MNIL for six-month period (in relevant months, at relevant locations)]

46. The Department correctly determined that the Appellant must meet a spend-down in order to receive Medicaid coverage in the period from [redacted] 2015 through [redacted] 2016.

DECISION

The Appellant's appeal is DENIED.

Eva Tar-electronic signature
Eva Tar
Hearing Officer

cc: [redacted]
Anthony Grant, DSS-New Haven (20)
John Dileonardo, DSS-New Haven (20)
Lisa Wells, DSS-New Haven (20)
Brian Sexton, DSS-New Haven (20)

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.