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 ID # [redacted]
Request # 762720

NOTICE OF DECISION

PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted] 2016, the Department of Social Services (the "Department") sent [redacted] (the "Appellant") a Notice of Action ("NOA) granting her Medicaid benefits under the Medically Needy for Aged, Blind, and Disabled Program ("MAABD") under a spenddown effective [redacted] 2016.

On [redacted] 2016, the Appellant requested an administrative hearing to contest the Department's action.

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

On [redacted] 2016, 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:

[redacted] Appellant
Ferris Clare, Department's Representative
Cecilia Tafur, Interpreter, Department of Social Services
Lisa Nyren, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Appellant must meet a spenddown to become eligible for MAABD coverage.

FINDINGS OF FACT

1. On [redacted] 2016, the Appellant submitted an application for medical assistance through Access Health. The Appellant submitted a medical bill from [redacted] ("Provider"), date of service [redacted]/15, amount of bill $96.00. (Exhibit 2: Case Narrative)

2. Access Health is a health insurance exchange where residents of Connecticut may apply for medical insurance. (Hearing Record)

3. The Appellant is age fifty-one years old. (Appellant's Testimony)

4. The Appellant is disabled. (Appellant's Testimony)

5. The Appellant lives in [redacted], Connecticut. (Appellant's Testimony)

6. The Appellant's nineteen-year-old son attends college in [redacted]. The Appellant's son lives with the Appellant between college semesters. (Appellant's Testimony)

7. The Appellant receives Social Security Disability ("SSD") benefits of $932.00 per month. (Appellant's Testimony and Exhibit 4: SVES Title II Information)

8. The Appellant receives Medicare Part A and Medicare Part B benefits from the Social Security Administration. (Appellant's Testimony)

9. The Appellant receives Medicaid under the Medicare Savings Plan that pays the Appellant's Medicare Part B premiums monthly. (Department Representative's Testimony)

10. On [redacted] 2016, the Department transferred the Appellant's Medicaid benefits from the Husky A program to MAABD program. The Department determined the Appellant eligible for MAABD under a spenddown totaling $429.72 for the period [redacted] 2016 through [redacted] 2016. (Exhibit 1: Notice of Action and Exhibit 3: MA Financial Eligibility)

11. On [redacted] 2016, the Department notified the Appellant that her medical benefits under the Husky A program were changed to another program that will give you the same benefits. She would have to submit medical

bills totaling $429.72 to meet a spenddown in order to become eligible for MAABD coverage for the six-month spenddown period [redacted] 2016 through [redacted] 2016. (Exhibit 1: Notice of Action and Exhibit 3: MA Financial Eligibility)

12. On [redacted] 2016, the Department determined the medical bill from the Provider, date of services [redacted]/15, $96.00 as a qualifying medical expense and offset the spenddown. The Department recalculated the spenddown to $333.72. (Exhibit 2: Case Narrative and Exhibit 3: MA Financial Eligibility)

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") § 2530.05(A) provides to qualify for the State Supplement or related Medical Assistance programs on the basis of disability, the individual must be disabled as determined by SSA or the Department. The individual must be found to have an impairment which:

    1. Is medically determinable; and
    2. Is severe in nature; and
    3. Can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve (12) months; and
    4. Except as provided in paragraph C below, prevents the performance of pervious work or any other substantial gainful activity which exists in the national economy.

    UPM § 2530.10(A)(1) provides that an individual who is considered disabled by SSA is considered disabled by the Department.

3. The Department correctly determined the Appellant as disabled under the MAABD program.

4. UPM § 2540.96(A) provides for the MAABD coverage group to include individuals who:

    1. Meet the MAABD categorical eligibility requirements of age, blindness or disability; and
    2. Are not eligible as categorically needy; and
    3. Meet the medically needy income and asset criteria.

5. UPM § 2540.96(C) provides that the Department uses the MAABD medically needy income and asset criteria to determine eligibility under this coverage group, including:

    1. Medically needy deeming rules;
    2. The Medically Needy Income Limit ("MNIL");
    3. The income spend-down process;
    4. The medically needy asset limits.

6. UPM § 4530.15(A) pertains to the medical assistance standards. It 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.

7. UPM § 4530.15(B) provides that the medically needy income limit is the amount equivalent to 143 percent of the benefit amount that ordinarily would be paid under the AFDC program to an assistance unit of the same size with no income for the appropriate region of residence.

8. The Department correctly determined that the MNIL for the Appellant's assistance unit for one person as $523.38.

9. UPM § 5050.13(A)(1) provides that income from Social Security is treated as unearned income in all programs.

10. The Department correctly included the Appellant's SSD benefits when determining the assistance unit's gross income.

11. UPM § 5025.05(B)(1) provides that if income is received on a monthly basis, a representative monthly amount is used as the estimate of income.

12. The Department correctly determined the Appellant's SSD benefits of $932.00 per month.

13. UPM § 5050.13(A)(2) provides that Social Security income is subject to an unearned income disregard in the AABD and MAABD programs.

14. UPM § 5030.15(C)(2)(a) provides that all of the disregards used in the AABD programs are used to determine eligibility for MAABD.

15. UPM § 5030.15(B)(1)(a) provides for the standard disregard as $337.00 (effective 1/1/2015) 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.

16. The Department correctly determined the standard disregard as $337.00.

17. UPM § 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.

18. The Department correctly calculated the Appellant's applied unearned income as $595.00. ($932.00 gross SSD – $337.00 standard disregard = $595.00)

19. UPM § 5045.10(E) provides that the assistance unit's total applied income is the sum of the unit's applied earnings, applied unearned income, and the amount deemed.

20. The Department correctly calculated the Appellant's total applied income as $595.00. ($00.00 applied earnings + $595.00 applied unearned income + $00.00 deemed income = $595.00)

21. UPM § 5520.20(B)(1) provides that 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.

22. The Department correctly calculated the Appellant's six-month period of eligibility as [redacted] 2016 through [redacted] 2016.

23. UPM § 5520.20(B)(5)(b) provides that 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: 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 spenddown process.

24. The Department correctly determined that the Appellant's applied income of $595.00 exceeded the MNIL of $523.88 for the Medicaid program.

25. The Department correctly determined that the Appellant's applied income exceeds the MNIL by $71.62 per month. ($595.00 applied income - $523.88 MNIL = $71.12 excess income)

26. UPM § 5520.25(A)(2) provides that when the assistance unit's applied income exceeds the Categorically Needy Income Limit, the assistance unit is ineligible to receive Medicaid as a categorically needy case. Those assistance units which are determined in eligible as categorically needy cases have their eligibility determined as medically needy.

27. UPM § 5520.25(B) provides that 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 spenddown.

28. The Department correctly determined that the Appellant must meet a spenddown in order to receive MAABD coverage.

29. The Department correctly determined the assistance unit's spenddown as $429.72. ($71.62 excess income x 6 months = $429.72)

30. UPM § 5520.30(B0(1) provides that the total amount of excess income for the entire six-month prospective period of offset by:

    a. Medical expenses occurring prior to the prospective period in accordance with guidelines set forth in UPM 5520.25 and;
    b. Paid or unpaid medical expense occurring the prospective period in chronological order.

31. UPM § 5520.25(B) provides for the use of medical expenses under a spenddown.

    1. Medical expenses are used for a spenddown 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 spenddown 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 spenddown in which their use resulted in eligibility for the assistance unit.
    2. The unpaid principal balance which occurs or exists during the spenddown period for loans used to pay for medical expense incurred before or during the spenddown period, is used provided that:
        a. The loan proceeds were actually paid to the provider; and

b. The provider charges that were paid with the loan proceeds have not been applied against the spenddown liability; and
c. The unpaid principal balance was not previously applied against spenddown liability, resulting in eligibility being achieved.

3. 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, expense 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.
4. When unpaid loan principal balances are used, they are categorized by the type of expense they were used to pay, as in B.3.
5. Expenses used to determine eligibility in a retroactive period are used in the following order:
   a. Unpaid expenses incurred any time prior to the three-month retroactive period; then
   b. Paid or Unpaid expenses incurred within the three-month retroactive period but not later than the end of the retroactive month being considered; then
   c. An unpaid principal balance of a loan which exists during the retroactive period.
6. Expenses used to determine eligibility in the prospective period are used in the categorical and chronological order described previously.
7. 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 expense 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.

32. The Appellant submitted a qualifying medical expense of $96.00 for the spenddown period [redacted] 2016 through [redacted] 2016.

33. The Department correctly reduced the assistance unit's spenddown from $429.72 to $333.72 upon receipt of the qualifying expense.

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

35. The Department correctly determined the Appellant must meet a spenddown in order to become eligible for MAABD.

DECISION

The Appellant's appeal is DENIED.

Lisa A. Nyren
Lisa A. Nyren
Hearing Officer

CC: Lisa Wells, Social Services Operations Manager
Brian Sexton, Social Services Operations Manager
Ferris Clare, Fair Hearing Liaison

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.

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.