

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

Client Id. # ██████████
Hearing Id. # 767547

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2016, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") stating that she must meet a spenddown before her Medical Assistance for the Aged, Blind and Disabled ("MAABD") can be activated.

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

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

On ██████████ 2016, in accordance with sections 17b-60, 17b-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
██████████, Appellant's Spouse
Garfield White, Department's Representative
Thomas Monahan, Hearing Officer

STATEMENTS OF THE ISSUE

The first issue is whether the Appellant's income exceeds the Medically Needy Income Limit ("MNIL") for Medicaid.

The second issue is whether the Appellant must meet a spenddown amount before being eligible for Medicaid.

FINDINGS OF FACT

1. The Appellant is requesting medical assistance for herself. (Appellant's testimony)
2. The Appellant's spouse receives medical assistance through Access Health CT. (Hearing record)
3. The Appellant resides with her spouse. (Appellant's testimony)
4. The Appellant is 53 years old and her spouse is 50 years old. (Appellant's testimony)
5. The Appellant receives monthly Social Security Disability ("SSD") of \$1,102.00. (Appellant's testimony, Ex. D: unearned income screen)
6. On [REDACTED] 2016 the Appellant telephoned the Department to report earnings for her husband. The Appellant's husband works for [REDACTED]. He works 25.5 hours per week at \$10.00 per hour. (Appellant's spouse's testimony Hearing record)
7. The Appellant is on Medicare B and her premium is paid under the Qualified Medicare Beneficiary program. (Hearing record)
8. On [REDACTED] 2016, the Department granted the Appellant Medicaid with a spenddown amount of \$4,797.54 for the period from [REDACTED] 2016 to [REDACTED] 2016. (Ex. I: Notice of spenddown,)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the Medicaid program.
2. Regulation 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. Uniform Policy Manual ("UPM") § 4530.15(A)

3. Regulation provides that the needs group for an MAABD unit includes the following: the applicant or recipient; and 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(C)(2)
4. Regulation 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. UPM § 4530.15(B)
5. The Department correctly determined that the MNIL for the Appellant's assistance unit for two persons was \$696.41.
6. Regulation provides that Social Security benefits are treated as unearned income for all programs. UPM § 5050.13(A) (1)
7. Regulation provides that 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 unit 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. UPM § 5020.75 (1)(a)
8. Regulation provides that Deemed income is calculated from parents and from spouses in the same way as in AABD for members of the following coverage groups:
 1. Recipients of AABD;
 2. AABD - Eligible Non-Recipients;
 3. Eligible for AABD except for a Non-Medicaid Requirement;
 4. Medically Needy Aged, Blind, and Disabled;
 5. Qualified Medicare Beneficiaries;
 6. Specified Low Income Medicare Beneficiaries;
 7. Additional Low Income Medicare Beneficiaries.
 UPM § 5020.75 (C)
9. Regulation provides that when calculating the amount deemed from one spouse to another when the spouse has not applied for AABD or has applied

and has been determined to be ineligible for benefits, the amount deemed to the unit from the unit member's spouse is calculated in the following manner; The deemor's gross earnings are reduced by deducting the following personal employment expenses as appropriate:

- (1) mandatory union dues and cost of tools, materials, uniforms or other protective clothing when necessary for the job and not provided by the employer;
- (2) proper federal income tax based upon the maximum number of deductions to which the deemor is entitled;
- (3) FICA, group life insurance, health insurance premiums, or mandatory retirement plans;
- (4) lunch allowance at .50 cents per working day;
- (5) transportation allowance to travel to work at the cost per work day as charged by private conveyance or at .12 cents per mile by private car or in a car pool. Mileage necessary to take children to or to pick them up from a child care provider may also be included;

The total applied earned income of the deemor is added to his or her total monthly gross unearned income; the combined total of the deemor's gross unearned income and applied earned income after the appropriate deductions are made is deemed available to the assistance unit member. UPM § 5020.70 (C)(3).

10. The Department did not determine the Appellant's spouse's eligibility for earnings deductions.
11. Regulation provides that Social Security income is subject to unearned income disregards in the Aid to the Aged, Blind, and Disabled ("AABD") and Medicaid for the Aid to the Aged, Blind, and Disabled ("MAABD") programs. UPM § 5050.13(A)(2)
12. Regulation 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. UPM § 5030.15(A)
13. Regulation 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.
UPM § 5030.15(B)(1)(a)

14. The Department correctly applied the standard unearned income disregard of \$337.00 per month to the Appellant's income.
15. The Department correctly determined that the Appellant's applied income for [REDACTED] and [REDACTED] of 2016 was \$765.00. (\$1,102 - \$337.00)
16. The applied income for [REDACTED] 2016 through [REDACTED] 2016 cannot be determined because eligibility for employment deductions has not been determined for the Appellant's spouse.
17. Regulation 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. UPM § 5520.20(B)(1)
18. Regulation 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. UPM § 5520.20(B)(5)
19. Regulation provides that when the unit's total applied income is greater than the total MNIL, the assistance unit is ineligible until the excess income is offset through the spenddown process. UPM § 5520.20(B)(5)(b)
20. The amount of the Appellant's applied income in excess of the MNIL cannot be determined because the Spouse's deemed income cannot be determined.
21. The amount of the Appellant's six month spenddown cannot be determined.

DECISION

The Appellant's appeal is **REMANDED** to the Department for further action.

ORDER

1. The Department will request from the Appellant's spouse verification of any employment expenses as defined under 5020.70(C)(3)
2. The Department will recalculate the amount of income deemed to the Appellant from her spouse.
3. The Department will recalculate the spenddown amount for the period of [REDACTED] 2016 through [REDACTED] 2016.

4. Compliance with this order is due by [REDACTED] 2016, and shall consist of verification that the Department has requested verification of employment expenses for the Appellant's spouse.

Thomas Monahan
Thomas Monahan
Hearing Officer

c: Musa Mohamud, Operations Manager, Hartford Regional Office
Judy Williams, Operations Manager, Hartford Regional Office
Tricia Morelli, Program Manager, Hartford Regional Office
Garfield White, 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 06105-3725.

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 061053725 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.