

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 Mail

Client ID # ██████████
Request # 774852

Cross Reference #774441

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2016, the Department of Social Services (the "Department") sent to ██████████ (the "Appellant") a notice to advise him that before medical assistance can be authorized he must meet a spend-down in the amount of \$114,437.52.

On ██████████ 2016, the Appellant requested an administrative hearing to contest the Department's determination that he must meet a spend-down before medical assistance may 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, in accordance with Connecticut General Statutes, sections 17b-60, 17-61 and 4-176e to 4-189 inclusive, OLCRAH held an administrative hearing.

The following individuals were present at the hearing:

██████████ Appellant
██████████ Appellant's Wife
██████████ Appellant's Son-in-Law/Translator
Michael Stanish, Department's Representative
Pamela J. Gonzalez, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether the Department correctly determined that the Appellant must meet a spend-down in the amount of \$114,437.52 before medical assistance can be authorized.

FINDINGS OF FACT

1. The Appellant resides with his wife, their daughter, their daughter's husband, and their two grandchildren in ██████████ Connecticut. (Hearing record)
2. The Appellant is 70 years of age; his date of birth is ██████████ 1946. (Appellant's testimony)
3. The Appellant's wife is 68 years of age; her date of birth is ██████████ 1948. (Appellant's testimony)
4. The Appellant and his wife are not citizens of the United States. They entered the United States in ██████████ 2001 and they are both Legal Permanent Residents. (Appellant's Son-in-Law's testimony)
5. Their daughter, with whom they reside, sponsored them into this country. (Form W-727 – Department's exhibit 3, Appellant's Son-in-Law's testimony)
6. The Appellant and his wife each receive State Administered General Assistance in the monthly amount of \$218.00. (Department's representative's testimony)
7. The Appellant provided a completed W-727 Form Sponsor of Non-Citizen Information Sheet to the Department indicating that his sponsor's gross monthly income totaled \$335,945.00 per year. (Department's exhibit 3)
8. Based upon the information provided in the W-727, the Department determined that \$19,769.33 per month is deemed from the Appellant's sponsor in determining the Appellant's medical assistance income eligibility. (Department's representative's testimony, Eligibility Management System MAFI screen print – Department's exhibit 3)
9. On ██████████ 2106, the Department issued a notice to the Appellant to advise that his income was too high to receive medical assistance however; he might qualify for medical assistance from ██████████ 2016 – ██████████ 2016 if he shows that he has medical bills that he owes on or has recently paid in the amount of \$114,437.52. (Notice dated ██████████ 2016 – Department's exhibit 1)

10. At this hearing, the Appellant provided income tax information and verifications that the Department's representative agreed to review for Medicaid eligibility purposes. (Hearing record)

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. 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)

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)

3. The Appellant resides in [REDACTED] [REDACTED] which is in Region B. UPM § 4510.10 B.
4. The MNIL for two persons residing Region B is \$696.41. UPM § P-4530.15 2.
5. 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

The Department correctly determined that the Appellant's assistance unit consists of one member.

6. 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

The Department correctly determined that the Appellant's needs group size is two.

7. The income limit used to determine income eligibility is the limit for the number of persons in the needs group. UPM § 5515.10(C)

The Department correctly determined that the income limit used in this case to determine eligibility is \$696.41.

8. UPM § 5050.41(B)(1) provides that General Assistance payments received by any members of the assistance unit are counted as unearned income and are subject to the use of disregards.
9. 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)

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 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)

10. The unearned income disregard increased to \$337.00 effective January 1, 2015.

After applying the unearned income disregard, the Appellant's applied SAGA income totals \$00.

11. UPM § 5020.60 (A)(1) states, the Department deems the income of a non-citizen's sponsor and the sponsor's spouse, if the spouse signed the Revised Affidavit of Support (I-864) or the Contract Between Sponsor and Household Member (I-864A) to the non-citizen under the following circumstances:
 - a. the sponsor and the sponsor's spouse are not members of the same assistance unit as the non-citizen; and
 - b. the non-citizen must have a sponsor under USCIS rules; and
 - c. the sponsor and the sponsor's spouse have executed an Affidavit of Support (I-864) or the Contract Between Sponsor and Household Member (I-864A) pursuant to 8 U.S.C. § 1183a (a) (section of the Personal Responsibility and Work Opportunity Act of 1996, amending Title II of the Immigration and Nationality Act by adding section 213(a) on behalf of the non-citizen; and

- d. the sponsor is an individual rather than an institution; and
- e. none of the exceptions set forth in Paragraph C of this section are applicable.

UPM § 5020.60 (A)(2) states, the Department deems income in accordance with Paragraph A.1 of this section, whether or not the sponsor lives with the non-citizen.

The Department correctly determined that the Appellant's sponsor's income must be deemed to the Appellant in determining medical assistance eligibility.

12. UPM § 5005 provides,
- A. 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.
 - 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.
 - B. The Department does not count income which it considers to be inaccessible to the assistance unit.
 - C. The Department computes applied income by subtracting certain disregards and deductions, as described in this section, from counted income.
 - D. The Department uses the assistance unit's applied income to determine income eligibility and to calculate the amount of benefits.

The Department correctly considered the Appellant's sponsor's earned income in determining his applied income for medical eligibility purposes.

13. Regulation provides for converting income to monthly amounts and states for past months the Department uses the exact amount of the unit's available income received or deemed in the month. Uniform Policy Manual ("UPM") § 5025.05(A)(1)

Based upon the income information that it received, the Department correctly determined that the Appellant's sponsor's average monthly gross earned income totaled \$27,995.41.

14. UPM § 5020.60(B) provides that the amount of income deemed from a sponsor and the sponsor's spouse is calculated in the following manner:
- 1. income which is excluded from consideration for assistance unit members is excluded from the sponsor's income;
 - 2. self-employment earnings are adjusted by subtracting the applicable self-employment expenses;

3. the gross monthly earned income amount is reduced by 20% to allow for personal work expenses;

4. the remaining earnings plus gross unearned income is totaled and reduced by the Supplemental Nutrition Assistance Program Gross Income Limit as determined by the family size of the sponsor and any other person who is claimed or could be claimed by the sponsor or the sponsor's spouse as a dependent for federal income tax purposes;

5. this amount is pro-rated for the non-citizen if the sponsor is also sponsoring other non-citizens; and

6. this amount is deemed to the assistance unit as unearned income to determine the non-citizen's eligibility.

7. In addition to the amount deemed, any amount in excess of the deemed amount which is paid by the sponsor to each non-citizen is also counted as unearned income.

The Department correctly afforded the Appellant 130% of the Federal Poverty Level in determining the amount of income to deem.

Based upon the income information that the Department had when it determined medical assistance eligibility, the monthly amount of the Appellant's sponsor's income to be deemed to the Appellant's assistance unit effective [REDACTED] 2016 totaled \$19,768.33. (\$27,995.41 – \$5,599.06 20% - \$2,628.00 130% of the FPL for 4)

15. 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)

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)

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)

The Appellant's applied income exceeds the MNIL by \$114,431.52 for the six month period of [REDACTED] 2016 – [REDACTED] 2016. (\$118,609.98 [\$19,768.33 x 6 months] - \$4,178.46 [\$696.41 MNIL limit for two persons x 6 months]).

The Department has correctly determined that the Appellant must meet a spend-down before medical assistance can be authorized.

DISCUSSION


The information provided at this hearing reveals that the sponsor's income that had been reported on the W-727 Form may be gross income for a business which the Appellant's sponsor owns. The Appellant's Son-in-Law testified that it may have been his son (the Appellant's grandson) that provided the income information.

Prior to this hearing, no other income information had been provided, therefore; the Department was correct to use the income information that it had received via the Form 727 to determine medical assistance eligibility.

The Appellant offered his sponsor's income tax information at this hearing which the Department agreed to review. Any new information provided does not impact this decision.

DECISION

The Appellant's appeal is **DENIED**.


Pamela J. Gonzalez
Hearing Officer

Copy: Cheryl Parsons, SSOM, DSS R.O. #40, Norwich
Michael Stanish, ESS, DSS R.O. #40, Norwich

A separate notice will be issued to address the medical assistance spend-down for the Appellant's wife.

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.