

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: # 777276

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2016, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a notice indicating that his income exceeds the limits for the Medical Assistance for the Aged, Blind and Disabled program ("MAABD") and that he must meet a spend-down amount of \$10,906.01 before his medical assistance can be activated.

On ██████████ 2016, the Appellant requested an administrative hearing to contest the Department's action to place the Appellant on a MAABD spend-down that was effective ██████████ 2016.

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:

██████████ the Appellant
██████████ Appellant's Spouse
Garfield White, Department's Representative
Thomas Monahan, Hearing Officer

STATEMENT 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 spend-down amount before being eligible for Medicaid.

FINDINGS OF FACT

1. The Appellant is requesting medical assistance for only himself. (Appellant' spouse's testimony)
2. The Appellant's household consists of two persons: the Appellant, [D.O.B. ██████████ 1939] and his wife [D.O.B. ██████████ 1948]. (Appellant's testimony)
3. The Appellant receives a monthly gross social security benefit of \$819.00. (Exhibit.: D: Department's unearned income screens)
4. The Appellant's spouse receives a monthly gross social security benefit of \$1,197.00. (Ex. D: Department's unearned income screens)
5. The Appellant's spouse receives a monthly gross pension benefit of \$117.00. (Ex. D Department's unearned income screens)
6. The Appellant and his spouse receive monthly rental income of \$1,200.00 for the rental of the first floor apartment of their ██████████ home. (Appellant's testimony)
7. The Department verified the Appellant's Spouse's last day of work as ██████████ 2016. (Ex. A: Case narrative)
8. The Appellant's monthly mortgage interest is \$954.05. The Appellants monthly property taxes and insurance is \$748.15. (Appellant's Exhibit 1: Mortgage statement)
9. On ██████████ 2016, the Department sent the Appellant a notice informing him that he must meet a spend-down of \$10,906.01 in order to become eligible for MAABD assistance for the period of ██████████ 2016 through ██████████ 2016. (Ex. E: Notice of spend-down)
10. On ██████████ 2016, the Department sent the Appellant a notice discontinuing his Additional Low Income Beneficiary assistance effective ██████████ 2016. (Ex. E: Notice of spend-down)

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. Uniform Policy Manual ("UPM") 2540.01 (A) provides in order to qualify for Medicaid; an individual must meet the conditions of a least one coverage group.
3. UPM § 2540.01 (C) (3) provides individuals who qualify as Medically Needy if their income either: (a) is within the Medically Needy Income Limit ("MNIL"); or (b) can be reduced to the MNIL by a spend-down of medical expenses (cross reference : 5520)
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. The Department correctly determined the Appellant and his spouse are considered aged under the MAABD program.
6. UPM § 4510.10 (A) (1) provides the State of Connecticut is divided into three geographic regions based on similarity in the cost of housing.

UPM § 4510.10 (A) (2) provides separate standards of need are established for each state region.

UPM § 4510.10 (A) (3) provides the standard of need which is applicable to a particular assistance unit is based on: (a) the current region of residence; and (b) the appropriate needs group size.

7. UPM § 5515.05 (C) (2) provides in part that 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 applying for or receiving assistance, except in cases involving working individuals with disabilities.
8. The Department correctly determined that the Appellant is a needs group of two, the Appellant and his spouse.

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

UPM § 4530.15 (A) (2) provides that the MNIL of an assistance unit vary 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 (B) provides that the MNIL is the amount equivalent to 143 percent of the benefit amount that ordinarily would be paid under the AFDC (TFA) program to an assistance unit of the same size with no income for the appropriate region of residence.

10. UPM § 4510.10 (B) provides that [REDACTED] is part of Region B.
11. The Department correctly determined that the Appellant resides in Region B.
12. The Temporary Family Assistance grant for two residing in Region B is \$487.00.
13. The Department correctly determined that the MNIL for the Appellant's assistance unit of two is \$696.41 ($\$487.00 * 1.43$).
14. UPM § 5050.09 (A) (1) provides that payments received by the assistance unit from annuity plans, pensions and trusts are considered as unearned income.

UPM § 5050.13 (A) (1) provides that income from Social Security is treated as unearned income in all programs.
15. Regulation provides that income received by the assistance unit from renting property to someone else is treated as unearned self-employment income under the Medicaid programs unless the income is derived from a business enterprise. UPM § 5050.69(A)(1)
16. The Appellant's rental income is not derived from a business enterprise.
17. The total self-employment income earned each month is reduced by the following self-employment deductions when they are incurred:
 - a. labor (wages paid to an employee or work contracted out);
 - b. interest paid to purchase income producing property;
 - c. insurance premiums;
 - d. taxes, assessments, and utilities paid on income producing property;

- e. service and repair of business equipment and property;
- f. rental of business equipment and property;
- g. advertisement;
- h. licenses and permits;
- i. legal or professional fees;
- j. business supplies.

UPM § 5050.69(A)(2)

18. When the rental property is:

- a. part of the home-occupied property of the assistance unit, only the expenses associated with the rented portion are considered as a deduction;
- b. not part of the home occupied property, the expenses are considered in total.

The gross income which remains after consideration of self-employment expenses is reduced by all appropriate deduction and disregards. The remaining amount of money is applied income. UPM § 5050.69(A)(3)(4)

19. The Department correctly determined that the Appellant's monthly gross income from Social Security was \$819.00
20. The Department correctly determined that the Appellant's spouse's gross monthly Social Security was \$1,197.00.
21. The Department correctly determined that the Appellant's spouse's gross monthly pension was \$117.00.
22. The Department incorrectly determined that the Appellant's countable monthly rental income was \$1,200.00. The correct monthly rental income is \$348.89. (\$1,200.00 rental income – \$477.03 ½ of the mortgage interest - \$374.08 ½ of taxes and insurance)
23. The Department incorrectly determined that the household's monthly gross unearned income was \$3,333.00. The correct monthly gross unearned income is \$2,481.89 (\$819.00 + \$1,197.00 + \$117.00 + \$348.89).
24. UPM § 5030.15 (A) 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 (B) (1) (a) provides that the disregard was \$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 thereafter, this disregard shall be increased to reflect the annual cost of living adjustment used by the Social Security Administration. Effective January 1, 2016, the disregard was \$337.00 for those individuals who reside in their own homes in the community.

- 25 UPM § 5045.10 (C) (1) provides that except for determining Aid to the Aged, Blind, and Disabled (“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.
26. The Department correctly applied the standard unearned income disregard of \$337.00 per month to the Appellant’s and his spouse’s income.
27. The Appellant’s correct monthly applied unearned income effective [REDACTED] 2016 is \$1,807.89 (\$2,481.89 unearned income minus - \$674.00 standard disregard [$337.00 * 2$])
28. 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.
29. 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 spend-down.
- UPM § 5520.25 (B) (1) Medical expenses are used for a spend-down if they meet the following conditions: a. the expenses must be incurred by the 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 providers or to a lender for a loan used to pay the providers, 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.
30. The Department correctly calculated the Appellant’s six-month period of eligibility as [REDACTED] 2016 through [REDACTED] 2016.
31. UPM § 5520.20 (B) (5) 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) (b) 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.

32. The Appellant's applied income exceeds the MNIL by \$1,111.48 per month (\$1,807.89 – \$696.41).
33. The Appellant's correct six month spend-down amount is \$6,668.88 (\$1,111.48 excess * 6 months).

DISCUSSION

The Department was correct to place the Appellant's Medicaid assistance in a spend-down based on his applied income exceeding the MNIL. The correct spend-down amount is \$6,668.88. The Appellant may submit medical bills to the Department at anytime for evaluation to help offset his spend-down.

DECISION

The Appellant's appeal is **Denied** in regards to being placed in a spend-down and **Granted** in regards to the spend-down amount.

ORDER

1. The Department will recalculate the spend-down amount using the correct applied income.
2. The Department will notify the Appellant of the new spend-down amount.
3. Compliance with this order is due to the undersigned no later than 15 days from the date of this decision.

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, Hartford Regional Office

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, law, and 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, if 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 06105-3725. 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.