

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 # ██████████
Request # 778029

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 spend-down in the amount of \$2,848.38 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 determination that she 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 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 Son & Sponsor
Carmen Butler, Department's Representative
Shelley Starr, Hearing Officer

The hearing record remained open for the submission of additional evidence from the Department and to allow time for the Appellant to review and respond. No response was received from the Appellant. On [REDACTED] 2016, the hearing record closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly determined that the Appellant must meet a spend-down in the amount of \$2,848.38 before medical assistance can be authorized.

FINDINGS OF FACT

1. The Appellant is a recipient of Medicaid benefits under the Medically Needy for the Aged, Blind or Disabled (“MAABD”) program with a spend-down for herself. (Exhibit 1: [REDACTED]; Exhibit 10: [REDACTED]; Hearing Record)
2. The Appellant was on a spend-down for the period of [REDACTED] 2016 through [REDACTED] 2016 of \$2,848.38 and is due for a new spend-down period beginning [REDACTED] 2016. (Exhibit 6: [REDACTED]; Hearing Record)
3. On [REDACTED] 2016, the Department completed and processed the Appellant’s mail in medical redetermination for the new spend-down period of [REDACTED] through [REDACTED] 2016, carrying over the income calculated from the previous spend-down period of [REDACTED] through [REDACTED] 2016. (Exhibit 16: Case Narrative; Hearing Record)
4. On [REDACTED] 2016, the Department sent the Appellant a W-1348 Verification We Need form requesting current paystubs and income verification from the Appellant’s sponsor. (Exhibit 16: Case Narrative; Hearing Record)
5. The Appellant is widowed and she resides with her adult son, who is her sponsor. (Appellant’s Testimony; Hearing Record)
6. The Appellant is not a citizen of the United States. She entered the United States in 2010, and is a lawful permanent resident. (Testimony; Hearing Record)
7. The Appellant’s sponsor signed the Affidavit of Support, sponsoring the Appellant into this country. (Sponsor’s Testimony; Hearing Record)
8. The Appellant’s is [REDACTED] years old, (DOB [REDACTED]). (Appellant’s Testimony)

9. The Appellant has no income sources of her own. She is not responsible for any shelter costs. (Appellant's Testimony, Hearing Summary; Hearing Record)
10. The Appellant resides in [REDACTED] which is located in geographic Region A. (Department's Testimony; Hearing Record)
11. On [REDACTED] 2016, the Department issued a notice to the Appellant to advise that her income was too high to receive medical assistance and that she has a spend-down of \$2,848.38 to meet from [REDACTED] 2016 through [REDACTED] 2016. (Exhibit 15: Notice of Action dated [REDACTED] 2016)
12. Following the close of the hearing, the Department provided additional information, however income verification was not provided demonstrating the calculation of the sponsor's income at the time of the completion of the redetermination. (Hearing Record)

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") § 1545 provides for The Redetermination Process and states in part that the eligibility of an assistance unit is periodically redetermined by the Department. During the redetermination, all factors relating to eligibility and benefit level are subject to review.

UPM § 1545.05 (B)(1) provides that the purpose of the redetermination is to review and, for FS assistance units, to recertify all circumstances relating to:

- a. need;
- b. eligibility;
- c. benefit level

The Department correctly required a redetermination for purposes of determining ongoing eligibility in the MAABD program.

3. 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.

UPM § 2540.01 (B) provides that generally, individual qualify for medical as categorically needy if:

1. Their income and assets are within the limits of the AFDC or AABD programs; or
2. Their categorical eligibility is especially protected by statute.

The Department correctly determined the Appellant is categorically eligible under the MAABD.

4. 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.
5. 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 Medically Needy Income Limit ("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.

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.

UPM § 2015.05 provides that 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.

The Department correctly determined that the Appellant resides in Region B.

The Department correctly determined that the Appellant assistance unit is a needs group of one.

6. UPM § 5005 (A) provides that 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.
7. UPM § 5020.05(A) provides in calculating the amount of deemed income, the income of the deemor is counted in full, except for those reductions specifically described in this chapter.
8. UPM § 5020.60 (A) (1) provides that 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 addition 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.

UPM § 5020.60 (A)(3) states, the Department deems income in accordance with Paragraph A.1 until one of the following events occurs;

- a. the non-citizen becomes a citizen of the United States; or
- b. the non-citizen works 40 qualifying quarters, as defined under Title II of the Social Security Act; or
- c. the non-citizen is credited for having worked 40 qualifying quarters if, beginning January 1, 1997, the qualifying quarters were worked when the non-citizen did not receive any federal means-tested public benefit, and either
 - (1) the qualifying quarters were worked by a aren't of such non-citizen while the non-citizen was under 18 years of age; or
 - (2) the qualifying quarters were worked by a spouse of such non-citizen during the couple's marriage and the non-citizen remains married to such spouse or such spouse is deceased; or
 - (3) the non-citizen or the sponsor dies.

The Department correctly determined that the Appellant's sponsor, who executed the Affidavit of Support is a financial deemor in the determination of MAABD eligibility.

9. 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 prorated 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 did not provide verification of the Appellant's Sponsor's gross monthly earned income.

The Department did not demonstrate the calculation of the \$2,979.02 gross income for which they based the Appellant's MAABD eligibility.

Based on the hearing record, the Appellant's eligibility and spend-down amount cannot be determined because the sponsor's countable income cannot be determined.

DECISION

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

ORDER

1. The Department must issue a W-1348 Verification We Need form to the Appellant for current income verification necessary to complete the Appellant's MAABD redetermination and calculation of her spend-down.
2. The Department must review the Appellant's spend-down calculation based on her sponsor's current gross income for the completion of her redetermination and calculation of the Appellant's spend-down for the period of [REDACTED] 2016 through [REDACTED] 2016.
3. Compliance is due by [REDACTED] 2016.


Shelley Starr
Hearing Officer

cc: Poonam Sharma, Operations Manager, Bridgeport Regional Office
Fred Presnick, Operations Manager, Bridgeport Regional Office
Yecenia Acosta, Program Manager, Bridgeport 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 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 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.