

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. # 782259

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 he must meet a spenddown before his Medicaid can be activated.

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

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,
██████████ the Appellant's wife
Elsie Fowler, Department's representative
Maureen Foley-Roy, Hearing Officer

The hearing record was held open for the submission of additional evidence. The record closed on ██████████ 2016.

STATEMENTS OF THE ISSUE

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

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

FINDINGS OF FACT

1. The Appellant and his wife were recipients of HUSKY A Medicaid through [REDACTED] 2016 because they had a minor child in their home. They no longer have any minor children in their home. (Hearing record and Appellant's testimony)
2. The Appellant is a recipient of Social Security in the amount of \$486.50 per month. (Exhibit 11: Bendex Inquiry)
3. The Appellant is a recipient of Medicare A and B. A monthly premium of \$104.90 is deducted from his Social Security benefit for Medicare. (Exhibit 12: Bendex Benefit screen print)
4. The Appellant's wife works at a plant in [REDACTED] making [REDACTED] [REDACTED]. She drives to her job five days a week and it takes her approximately 40 minutes to get there. She is unsure how many miles she drives. (Appellant's testimony)
5. The Appellant's Social Security benefit and his wife's earnings are the couple's only income. (Appellant's testimony)
6. The Appellant's wife has dental, vision and life insurance premiums deducted from her paycheck. (Exhibit 2: Paystubs)
7. The Appellant's wife has a deduction from her paycheck to a 401K but it is not mandatory. (Exhibit 2 & Appellant's testimony)
8. The Appellant's wife is not in a union and all the equipment that she needs on her job is supplied by her company. (Appellant's testimony)
9. On [REDACTED] 2016, the Department sent the Appellant a notice advising him that his income exceeded the limit to receive medical assistance and that in order to be eligible for medical assistance; he must meet a spenddown of \$13,773.66 for the period from [REDACTED] of 2016 through [REDACTED] of 2017. (Exhibit 4: Notice of Spenddown dated [REDACTED] 2016)

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”) § 2540.01A provides that in order to qualify for medical assistance, an individual just meet the conditions of at least one coverage group.
3. UPM § 5500.01 provides that a needs group is the group of persons comprising the assistance unit and certain other persons whose basic needs are added to the total needs of the assistance unit members when determining the income eligibility of the assistance unit.
4. UPM § 5515.05 C 2 a and b provides in part that the needs group for an Medical Assistance for the Aged, Blind and Disabled (“MAABD”) unit includes the applicant or recipient and 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.
5. UPM § 2015.05(A) provides that the assistance unit in Assistance to the Aged, Blind or Disabled (“AABD”) and MAABD consists of only one member. In these programs, each individual is a separate assistance unit.
6. The Department correctly determined that the Appellant is in a needs group of two persons and an assistance unit of one member.
7. UPM § 5050.13(A) (1) provides that income from Social Security is treated as unearned income for all programs.
8. UPM § 5050.13(A)(2) 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.
9. 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.
10. UPM § 5030.15(B)(1)(a) provides that the disregard is \$337 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.

11. The Department correctly determined that the Appellant's applied income from Social Security is \$148.90 per month. (\$485.90-\$337).
12. UPM § 5020.75 A 1 a 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.
13. The Department was correct when it determined that his wife's income must be deemed to the Appellant.
14. UPM § 5020.75 C 4 provides for the deeming methodology and states that deemed income is calculated from parents and from spouses in the same way for members of the MAABD coverage group as in AABD.
15. UPM § 5020.70 C 3 provides for calculating the amount of deemed income and states that the when the spouse has not applied for AABD or has applied and 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 self-employment earnings are reduced by self-employment expenses, if applicable, and the **deemor's gross earnings are reduced by deducting the following personal employment expenses, as appropriate, (1) mandatory union dues and costs of tools, materials, uniforms or other protective clothing when necessary for the job and not covered 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 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 pick them up from a child care provider may also be included. (Emphasis added)
16. The Department did not correctly determine the income deemed from the Appellant's spouse because it did not apply the appropriate personal employment expenses to her earnings.
17. 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.

18. 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 program to an assistance unit of the same size with no income for the appropriate region of residence.
19. UPM § 4510.10(B) provides that [REDACTED] is part of Region B.
20. The Department correctly determined that the Appellant resides in Region B.
21. The Temporary Family Assistance grant for two persons residing in Region B is \$487.
22. The MNIL for two persons residing in region B is \$696.41. ($\$487 \times 143\%$).
23. The Department correctly determined that the MNIL for the Appellant's needs group of two persons is \$696.41.
24. The Department cannot correctly determine if the Appellant's income exceeds the MNIL because it did not correctly calculate the deemed income from the Appellant's spouse when it did not apply the appropriate personal employment expenses.

DISCUSSION

Given the facts of this case, it is most likely that the Appellant's income does exceed the MNIL of \$696.41. But that cannot be determined with certainty because the Department did not deem the correct income from the Appellant's spouse. And if a spenddown does result, the amount will be determined by using the correct income. The Department must obtain and apply the appropriate personal employment expenses prior to deeming the Appellant's spouse's earnings in order to correctly determine if the Appellant's income exceeds the MNIL and the amount of any spenddown that he must meet.

DECISION

The Appellant's appeal is The Appellant's appeal is **REMANDED BACK TO THE DEPARTMENT FOR FURTHER ACTION.**

ORDER

The Department is ordered to obtain the number of miles the Appellant's spouse drives to work and recalculate the deemed income by allowing all of the appropriate deductions noted in the COL #15 above to the Appellant's spouse's

earnings. The Department shall then determine the Appellant's eligibility for the HUSKY C MAABD medical assistance program.

Compliance with this order is due by [REDACTED] 2016 and shall consist of documentation that the Department has determined eligibility for the HUSKY C MAABD program using the correctly deemed income.

Maureen Foley-Roy
Maureen Foley-Roy
Hearing Officer

- Pc: **Tonya Cooke-Bedford** DSS Operations Manager, Willimantic
Elsie Fowler, Eligibility Worker, DSS, Willimantic

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.