

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. # 782820

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 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, the Appellant requested to reschedule the Administrative Hearing.

On ██████████ ██████████ 2016, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice rescheduling 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:

[REDACTED] the Appellant,
 Trevor Thompson, Caseworker/Observer
 Javier Rivera, Department's Representative
 Shelley Starr, Hearing Officer

The hearing record was held open for the submission of additional evidence from the Department. On [REDACTED] 2016, the hearing record closed..

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 is 59 years old, (DOB [REDACTED]/57), married, and resides with her spouse. (Appellant's Testimony; Hearing Record).
2. The Appellant is a recipient of the Husky C Medicaid for the Aged, Blind and Disabled ("AABD") program for herself and was due for a renewal of eligibility beginning [REDACTED] 2016. (Appellant's Testimony; Hearing Record)
3. On [REDACTED] 2016, the Appellant sent her renewal form to the Department for review. (Exhibit 17: W-1ER document, signed [REDACTED] 2016)
4. On [REDACTED] 2016, the Department reviewed the Appellant's W-1ER redetermination document. (Exhibit 17: W-1ER document; Exhibit 1: Case Narrative; Hearing Record)
5. The Appellant reported on her W-1ER document that she receives gross monthly SSI income of \$950.00 per month and her husband receives earned income from [REDACTED] [REDACTED] [REDACTED] with a yearly gross of \$31,645.00. (Exhibit 17: W-1# \$ Renewal of Eligibility dated [REDACTED] 2016)
6. On [REDACTED] 2016, the Department sent the Appellant a W-1348 Verification We Need form requesting current wage stubs verifying her husband's wages with [REDACTED] [REDACTED] [REDACTED] [REDACTED] and the [REDACTED] and current bank statements from Charter Oak and CT Community Credit Union. The information was due by [REDACTED] 2016. (Exhibit 22: W-1348 dated [REDACTED] [REDACTED] 2016; Exhibit 1: Case Narrative; Hearing Record)

7. On [REDACTED] 2016, the Appellant went to the Department to report that her husband works per diem at the [REDACTED]. The Department gave the Appellant a W-35 certificate for disclosure of gross wages to obtain payroll information to return to the Department. (Exhibit 18: W-35's dated [REDACTED] 2016; Exhibit 23: Case Narrative)
8. On [REDACTED] 2016, the Appellant contacted the Department requesting an extension of time to obtain the requested verifications. (Exhibit 1: Case Narrative; Hearing Record)
9. On [REDACTED] 2016, the Appellant provided the Department with the requested bank account verification and the W-35 disclosure of wage document's from [REDACTED]. (Exhibit 1: Case Narrative; Hearing Record)
10. The Appellant did not provide current gross wage verification from [REDACTED]. (Appellant's Testimony; Department's Testimony; Hearing Record)
11. There is no evidence in the hearing record that the Department requested wage verification from the Appellant regarding her husband's employment at [REDACTED]. (Hearing Record)
12. The Appellant's husband works as a stage hand crew member at five places of employment on a per diem basis. He is employed by [REDACTED], [REDACTED] and [REDACTED]. (Appellant's Testimony; Hearing Record)
13. The Department calculated the husband's income based on earnings from three places of employment. The husband is employed at five places on a per diem basis. (Appellant's Testimony; Hearing Record)
14. The Department did not sufficiently provide an explanation of how they determined the calculation of the husband's earnings reflected in its computation. (Hearing Summary; Exhibit 18: W-35 [REDACTED]; Exhibit 13: ERN2)
15. On [REDACTED] 2016, the Department completed the Appellant's AABD redetermination computing the Appellant's household gross income of \$1,772.12, with a spenddown of \$4,426.26. (Exhibit 3: MAFI screenshot; Exhibit 29: Notice of Action dated [REDACTED] 2016; Exhibit 1: Case Narrative)
16. On [REDACTED] 2016, the Department sent the Appellant a notice advising her that her income exceeded the limit to receive medical assistance and that in order to be eligible for medical assistance; she must meet a spenddown of

\$4,426.26 for the period from [REDACTED] of 2016 through [REDACTED] of 2016.
(Exhibit 4: Notice of Action 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)&(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.

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.

The Department correctly determined that the Appellant is in a needs group of two persons and an assistance unit of one member.

5. UPM § 5050.13(A)(1) provides that income from Social Security is treated as unearned income for all programs.
6. 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.
7. 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 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.

The Department correctly deducted the standard disregard of \$337.00 from the Appellant's total gross monthly unearned income.

The Department correctly determined that the Appellant's applied income from Social Security is \$613.00 per month. (\$950.00 - \$337.00 = \$613.00)

8. 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.

The Department correctly determined that her husband's income must be deemed to the Appellant.

9. 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.
10. UPM § 5020.70(C)(3)(a)&(b) provides for calculating the amount of deemed income and states that 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: (a) the deemor's self-employment earnings are reduced by self-employment expenses, if applicable, and (b) 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.

The Department did not correctly obtain the husband's gross earnings from all of his per diem employers.

The Department did not correctly determine the income deemed from the Appellant's husband because it did not consider the appropriate personal employment expenses to his earnings.

11. 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 program to an assistance unit of the same size with no income for the appropriate region of residence.

UPM § 4510.10(B) provides that [REDACTED] is part of Region B.

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

The Temporary Family Assistance grant for two persons residing in Region B is \$487.00.

The MNIL for two persons residing in Region B is \$696.41. ($\$487.00 \times 143\% = \696.41).

The Department correctly determined that the MNIL for the Appellant's needs group of two persons is \$696.41.

The issue in which the hearing was requested cannot be determined as the information presented is not sufficient to determine if the Appellant's income exceeds the Medically Needy Income Limit for Medicaid and the calculation of an applicable spenddown amount.

DISCUSSION

Based on the testimony and evidence, it is likely that the Appellant's income exceeds the MNIL of \$696.41 and would incur a spenddown. The actual total household income cannot be determined because the Department did not request and verify all of the Appellant's husband's current income from his employers in which to deem. In addition, the Department did not consider any appropriate personal employment expenses in its calculation of deemed income.

The Appellant listed on her redetermination document that her husband had only one place of employment at [REDACTED] [REDACTED]. The Department mailed the Appellant a W-1348 form requesting current wage stubs from [REDACTED] [REDACTED] and the [REDACTED]. The Department requested earnings from what appears to be based on the employment information that carried over from a previous review. It is not clear why the Department did not request earnings from the reported [REDACTED] employer or request verification from all income sources. There is no evidence in the hearing record that the Department calculated income using current wages from all of the husband's employers and the Department did not sufficiently provide an explanation of how they determined his calculation of earnings. At the time of the hearing, the Appellant reported that her husband is employed on a per diem basis and has five places of employment.

The Appellant's main argument at the hearing is that she believes her husband's per diem employment has not been correctly calculated and that her spenddown is too high. The Department must obtain and verify all of the husband's gross income sources and apply any appropriate personal employment expenses prior to deeming his earnings in order to correctly determine the amount the Appellant's income exceeds the MNIL, and the amount of any spenddown that she must meet.

DECISION

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

ORDER

1. The Department shall obtain the Appellant's spouse's income from all employers and recalculate the deemed income by allowing all of the appropriate deductions for work expenses to the Appellant's spouse's earnings.
2. The Department shall then determine the Appellant's eligibility for the HUSKY C MAABD medical assistance program.
3. 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.


Shelley Starr
Hearing Officer

cc: Elizabeth Thomas, Operations Manager, DO# 11 Manchester

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.