

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 # ██████████  
Request # 783489

**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 her income exceeds the limits for the Medical Assistance for the Aged, Blind and Disabled program ("MAABD") and he must meet his spend-down amount of \$614.12 before his medical assistance can be activated.

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

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  
Al Grande, Department's Representative  
Sybil Hardy, Hearing Officer

## **STATEMENTS 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 she is eligible for Medicaid benefits under the MAABD program.

## **FINDINGS OF FACT**

1. The Appellant is requesting medical assistance for herself. (Appellant's Testimony, Exhibit 2: Non-Financial Eligibility Results ["ELIG"] and MA Financial Eligibility ["MAFI"] Screens)
2. The Appellant is single. (Appellant's Testimony)
3. The Appellant resides with her 47 year old daughter and her 23 year old grandson. (Appellant's Testimony)
4. The Appellant's grandson is a full time student at [REDACTED], Massachusetts and come home on weekends and holidays. (Appellant's Testimony)
5. The Appellant is 65 years old (DOB [REDACTED]/51). (Appellant's Testimony, Exhibit 4)
6. The Appellant is not disabled. (Appellant's Testimony)
7. The Appellant receives a gross monthly income from Social Security Disability of \$870.00. (Appellant's Testimony, Exhibit 1: Notice of Action, [REDACTED]/16, Exhibit 2, Exhibit 3: Unearned Income ["UINC"] Screen)
8. The Appellant receives gross monthly income from Social Security Administration ("SSA") in the amount of \$92.00. (Appellant's Testimony, Exhibit 1, Exhibit 2, Exhibit 3)
9. The Appellant's monthly rent amount is \$400.00. (Appellant's Testimony)
10. During [REDACTED] 2016, the Department completed the Appellant's annual review of her MAABD benefits. (Appellant's Testimony)
11. On [REDACTED] 2016, the Department sent the Appellant of NOA indicating that her household income exceeded the income limits for the medical assistance under the

MAABD program and that her total spend-down amount is \$612.12 for the current six-month period of [REDACTED] 2016 through [REDACTED] 2016. (Exhibit 1, Exhibit 2)

12. The Appellant did not provide the Department with any unpaid medical expenses. (Appellant's Testimony)

### **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") Section 5515.05(C)(2) Regulation provides that the needs group for an MAABD unit includes the following: the applicant or recipient; and 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 spouses (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).
3. UPM § 4530.15(A) Regulation 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.
4. UPM § 4510.10 Regulation provides that 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.
5. UPM § 2540.01(C) Regulation provides that individuals qualify for medical assistance ("MA") as medically needy if:
  1. their income or assets exceed the limits of the Aid to Families with Dependent Children ("AFDC") or Aid to the Aged, Blind and Disabled ("AABD") programs; and
  2. their assets are within the medically needy asset limit; and
  3. 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.
6. UPM § 4530.15(B) Regulation provides that the medically needy income limit 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.

7. UPM § 4510.10 The State of Connecticut is divided into three geographic regions on the basis of a similarity in the cost of housing. Separate standards of need are established for each state region. 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.
8. The Department correctly determined that the Appellant is a needs group of one residing in Region C.
9. The Department correctly determined that the MNIL for the Appellant's assistance unit for one person is \$523.38.
10. UPM § 5050.13(A)(1) Regulation provides that Social Security and Veterans benefits are treated as unearned income for all programs.
11. The Department correctly determined that the Appellant's total monthly unearned income is \$962.00 (\$870.00, SSD + \$92.00, SSA)
12. UPM § 5050.13(A)(2) Regulation 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.
13. UPM 5030.15(A) Regulation 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.
14. UPM § 5030.15(B)(1)(c) provides that the disregard is \$404.90 for those individuals who share non-rated housing with at least one person who is not related to them as parent, spouse or child. This does not apply to individuals who reside in shelters for battered women or shelters for the homeless. Effective January 1, 2008, and each January 1<sup>st</sup> thereafter, this disregard shall be increased to reflect the annual cost of living adjustment used by the Social Security Administration.
15. The Department incorrectly determined that the Appellant does not share non-rated housing with at least one person who is not a parent, spouse or child and her standard disregard is \$337.00. The Appellant's grandson is a member of the household, therefore she qualifies for the special disregard of \$404.90.
16. The Appellant's applied income was \$557.10 (\$962.00 – 404.90) for the period from [REDACTED] 2016 through [REDACTED] 2016.
17. 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.

18. 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.
19. 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 spend-down process.
20. 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.
21. The Appellant's applied income exceeds the MNIL by \$33.72 (\$557.10, Total Income – \$523.38, MNIL) per month from [REDACTED] 2016 through [REDACTED] 2016.
  1. The Department incorrectly determined that the Appellant spend-down amount is \$612.12.
  2. The Appellant's six-month spend-down amount is \$202.32 (\$33.72 x 6 months) for the period from [REDACTED] 2016 through [REDACTED] 2016.
  3. The Department correctly determined that the Appellant's income exceeds the MNIL for the MAABD program and that she must meet a spend-down.
  4. UPM § 5520.25(B)(1) provides that medical expenses are used for a spend-down if they meet the following conditions:
    - a. the expenses must be incurred by a 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 provider(s) or to a lender for a loan used to pay the provider(s), 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.
  5. The Department correctly determined that the Appellant must provide verification of current liability for the unpaid medical expenses.

### DISCUSSION

The Department correctly determined that the Appellant's income exceeds the MNIL for Medicaid and must meet a spend-down amount before she is eligible for Medicaid benefits under the MAABD program.

The Department incorrectly determined that the Appellant's spend-down amount is \$612.12 because they changed her shared living disregard from \$404.90 to the standard disregard of \$337.00. The Appellant's grandson is part of the household even though he is a full time college student out of state. His permanent address remains with his mother unless he makes it a permanent change. The Appellant gave provided credible and convincing testimony that he is part of the household and comes home on weekends and holidays.

### DECISION

The Appellant's appeal is **DENIED** regarding her income exceeding the MNIL.  
The Appellant's appeal is **GRANTED** regarding the spend-down amount.

### ORDER

1. The Department shall correct the Appellants living arrangement code to reflect that there is a member who is not her parent, child or spouse and continue to process the case.
2. Compliance of this order is due to the undersigned no later than [REDACTED] 2016.

  
Sybil Hardy  
Hearing Officer

Pc: Peter Bucknall, Operations Manager, DSS R.O. # 60, Waterbury  
Al Grande, Operations Manager, DSS R.O. # 60, Waterbury

### **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 06105-3725. 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.