

STATE OF CONNECTICUT  
DEPARTMENT OF SOCIAL SERVICES  
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS  
55 FARMINGTON AVENUE  
HARTFORD, CT 06105

██████████ 2016  
Signature confirmation

Client: ██████████  
Request: 792171

**NOTICE OF DECISION**

**PARTY**

██████████  
██████████  
██████████  
██████████

**PROCEDURAL BACKGROUND**

On ██████████ 2016, the Department of Social Services (the "Department") issued ██████████ (the "Appellant") a notice that the agency had determined that he must meet a \$387.72 spend-down in order to receive Medicaid coverage in the period from ██████████ 2016 through ██████████ 2017.

On ██████████ 2016, the Appellant filed a request with the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") to dispute the Department's determination.

On ██████████ 2016, the 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, the OLCRAH held an administrative hearing. The following individuals attended the administrative hearing:

██████████ Appellant  
██████████ Appellant's interpreter  
Jacqueline Taft, Department's representative  
Eva Tar, Hearing Officer

The hearing record closed ██████████ 2016.

### **STATEMENT OF ISSUE**

The issue is whether the Department correctly determined that the Appellant must meet a spend-down in order to receive Medicaid coverage.

### **FINDINGS OF FACT**

1. The Appellant and his wife reside together in [REDACTED], Connecticut. (Appellant's testimony)
2. Since [REDACTED] 2013, the Appellant's wife has been receiving Medicaid coverage through the home and community-based services coverage group, or "W01." (Department's Exhibit 4: Printouts, [REDACTED]/16)(Department's Exhibit 2: Printout, [REDACTED]/16)(Department's representative's testimony)
3. The Appellant grosses \$925.00 per month in Social Security benefits. (Department's Exhibit 4)
4. The Appellant's wife grosses \$425.00 in Social Security benefits. (Department's Exhibit 4)
5. On [REDACTED] 2016, the Department issued the Appellant a notice stating that he would have to submit \$387.72 in medical bills to meet a spend-down in order to become eligible for Medicaid coverage in the period from [REDACTED] 2016 through [REDACTED] 2017. (Department's Exhibit 3: Notice Content-NCON, [REDACTED]/16)

### **CONCLUSIONS OF LAW**

1. The Department of Social Services is designated as the state agency for the administration of (1) the Connecticut energy assistance program pursuant to the Low Income Home Energy Assistance Act of 1981; (2) the state plan for vocational rehabilitation services for the fiscal year ending June 30, 1994; (3) the refugee assistance program pursuant to the Refugee Act of 1980; (4) the legalization impact assistance grant program pursuant to the Immigration Reform and Control Act of 1986; (5) the temporary assistance for needy families program pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996; (6) the Medicaid program pursuant to Title XIX of the Social Security Act; (7) the supplemental nutrition assistance program pursuant to the Food and Nutrition Act of 2008; (8) the state supplement to the Supplemental Security Income Program pursuant to the Social Security Act; (9) the state child support enforcement plan pursuant to Title IV-D of the Social Security Act; and (10) the state social services plan for the implementation of the social services block grants and community services block grants pursuant to the Social Security Act. Conn. Gen. Stat. § 17b-2.
2. Section 2000.01 of the Uniform Policy Manual ("UPM") defines an "assistance unit" as follows:  
Assistance Unit. The assistance unit consists of one or more individuals who apply for or receive assistance together under one of the Department's programs. Uniform Policy Manual ("UPM") § 2000.01.

3. The assistance unit in AABD [Aid to the Aged, Blind, and Disabled] and MAABD [Medicaid associated with Aid to the Aged, Blind, and Disabled] consists of only one member. In these programs, each individual is a separate assistance unit. UPM § 2015.05 (A).
4. An eligible spouse in the home applies for and receives assistance as a separate assistance unit. UPM § 2015.05 (B).
5. Any other member of the household who meets the eligibility requirements for the program is also a separate assistance unit of one. UPM § 2015.05 (C).
6. **Individuals Receiving Home and Community Based Services (W01).** Coverage Group Description. This group includes individuals who: 1. would be eligible for MAABD if residing in a long-term care facility (LTCF); and 2. qualify to receive home and community-based services under a waiver approved by the Centers for Medicare and Medicaid Services; and 3. would, without such services, require care in an LTCF. UPM § 2540.92 (A).
7. The Department does not deem income from: a. spouses who are living apart; or b. parents who live apart from their children. UPM § 5020.75 (B)(1).
8. Spouses are considered to be living apart under the following circumstances:
  - a. one spouse has left the home and does not return; or
  - b. both are residing in different rooms in the same boarding home; or
  - c. both are residing in the same long-term care facility; or
  - d. one spouse is receiving home and community-based services (CBS) under a Medicaid waiver. UPM § 5020.75 (B)(2).
9. For the purposes of the Medicaid program, the Appellant and his wife are considered "living apart," as the Appellant's wife is receiving home and community-based services under a Medicaid waiver.
10. For the purposes of the Medicaid program, the Appellant is an assistance unit of one.
11. 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. UPM § 5005 (A).
12. Social Security and Veterans' Benefits: Income from these sources is treated as unearned income in all programs. This income is subject to unearned income disregards in the AABD and MAABD programs. UPM § 5050.13 (A)(1) and (2).
13. For the purposes of the Medicaid program, the Appellant's gross monthly Social Security benefits are available income.

14. The Department computes applied income by subtracting certain disregards and deductions, as described in this section, from counted income. UPM § 5005 (C).
15. The Department uses the assistance unit's applied income to determine income eligibility and to calculate the amount of benefits. UPM § 5005 (D).
16. 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 (A).
17. Standard Disregard: The disregard is \$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<sup>st</sup> thereafter, this disregard shall be increased to reflect the annual cost of living adjustment used by the Social Security Administration. UPM § 5030.15 (B)(1)(a).
18. The standard disregard is \$337.00. UPM § P-5030.15.
19. For the purposes of the Medicaid program, the Appellant's monthly applied income was \$588.00. [\$925.00, gross monthly income from Social Security; minus \$337.00, standard disregard]
20. ██████████, Connecticut falls within Region B. UPM § 4510.10 (B)(1).
21. A uniform set of income standards is established for all assistance units who do not qualify as categorically needy. UPM § 4530.10 (A)(1).
22. The Medically Needy Income Limit ("MNIL") of an assistance unit varies 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 (A)(2).
23. The MNIL is the amount equivalent to 143 percent of the benefit amount that ordinarily would be paid under the TFA program to an assistance unit of the same size with no income for the appropriate region of residence. UPM § 4530.15 (B).
24. The MNIL for a needs group of one equals \$523.38 in Region B. UPM § P-4530.15 (2).
25. The Appellant's monthly applied income exceeds the MNIL by \$64.62 per month. [\$588.00, monthly applied income; minus \$523.38. (MNIL)]
26. 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).
27. Income eligibility for the assistance unit exists as of the day when excess income is totally offset by medical expenses: a. Any portion of medical expenses used to offset the excess income are the responsibility of the unit to pay. b. Medical expenses which are recognized as payable under the State's plan and which are remained unpaid at the time

eligibility begins are paid by the Department provided the expenses were not used to offset income. UPM § 5520.25 (B)(7).

28. The total amount of excess income for the entire six-month prospective period is offset by:
  - a. medical expenses occurring prior to the prospective period in accordance with guidelines set forth in 5520.25; and
  - b. paid or unpaid medical expenses occurring in the prospective period in chronological order. UPM § 5520.30 (B)(1).
29. When the excess income is offset by medical expenses before the expiration of the prospective period, the assistance unit is eligible for the remaining balance of the six months. UPM § 5520.30 (B)(2).
30. When the amount of incurred expenses is insufficient to offset the excess income, no eligibility exists for that six-month period. UPM § 5520.30 (B)(3).
31. The Appellant's spend-down to be met from [REDACTED] 2016 through [REDACTED] 2017 equals \$387.72. [Monthly applied income in excess of MNIL for six-month period]
32. The Department correctly determined that the Appellant must meet a spend-down in order to receive Medicaid benefits.

**DECISION**

The Appellant's appeal is DENIED.

*Eva Tar-electronic signature*  
Eva Tar  
Hearing Officer

cc: Jacqueline Taft, DSS-New Haven (20)  
Lisa Wells, DSS-New Haven (20)  
Cheryl Stuart, DSS-New Haven (20)  
Brian Sexton, DSS-New Haven (20)

### **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 Legal Counsel, Regulations, and Administrative Hearings, 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 his 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.