

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

REQUEST #793632

CLIENT ID # ██████████

NOTICE OF DECISION

PARTY

██████████
C/O ██████████
██████████
████████████████████

PROCEDURAL BACKGROUND

On ██████████ 2016, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") placing her medical assistance under the Medicaid/Husky C program into a spenddown status, effective ██████████ 2016.

On ██████████ 2016, the Appellant requested an administrative hearing to contest the Department's decision to place her medical assistance under the Medicaid program into a spenddown status.

On ██████████ 2016, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice scheduling the Appellant's administrative hearing for ██████████ 2016 @ 2:30 PM.

On ██████████ 2016, in accordance with sections 17b-60, 17b-61, and 4-176e to 4-184, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing to address the Department's decision to place the Appellant's medical assistance under the Medicaid program into a spend-down status.

The hearing record was closed on ██████████ 2016.

The following individuals were present at the hearing:

██████████ Appellant
██████████ Sponsor/Witness for the Appellant
Albert J. Grande, Representative for the Department
Hernold C. Linton, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly determined the Appellant's spend-down amount for the period of [REDACTED] 2016 through [REDACTED] 2016.

FINDINGS OF FACT

1. The Department conducted a review of the Appellant's eligibility for medical assistance under the Medicaid/Husky C program. (Appellant's testimony; Hearing Summary)
2. On [REDACTED] 2016, the Department determined that the Appellant must meet a medical spenddown amount of \$20,258.34 for the period of [REDACTED] 2016 through [REDACTED] 2016 before her assistance unit would be eligible for medical assistance under the Medicaid program. (Appellant's testimony; Hearing Summary)
3. Pursuant to the Appellant's hearing request, on [REDACTED] 2016, the Department determined that the Appellant must now meet a medical spenddown amount of \$20,161.30 for the period of [REDACTED] 2016 through [REDACTED] 2016 before her assistance unit would be eligible for medical assistance under the Medicaid program. (Appellant's testimony; Hearing Summary; Dept.'s Exhibit #1: [REDACTED]/16 Notice of Action)
4. The Appellant is an eligible non-citizen that entered the United States after [REDACTED] 1996, and she resides with her sponsor, who signed her Affidavit of Support (Form "I-864). (Appellant's testimony; Hearing Summary)
5. The Appellant's sponsor is not a member of her assistance unit. (Appellant's testimony; Hearing Summary)
6. The Appellant has an assistance unit consisting of one (1) member. (Appellant's testimony; Hearing Summary)
7. The Appellant's assistance unit has a needs group consisting of one (1) eligible member. (Hearing Summary)
8. The Appellant's sponsor has monthly projected gross earned income of \$7,038.46. (Dept.'s Exhibit #6: DOL Wage Inquiry)
9. The Department first subtracted 20% (\$1,407.69) of the sponsor's earned income, and then subtracted 130% of the Federal Poverty Level ("FPL") for 2 of \$1,736.00, and deemed the remainder of \$3,894.77 per month to the Appellant. (Hearing Summary; Dept.'s Exhibit #5: MAFI Screen)
10. The Medicaid Medically Needy Income Limit (MNIL) for a needs group consisting of one [1] member residing in Region C is \$523.38 per month. (Hearing Summary; Dept.'s Exhibit #5)

11. After subtracting the amount of \$523.38, which is the Medicaid Income Limit for one (1), the Appellant's assistance unit has monthly excess income of \$3,371.39. (Hearing Summary; Dept.'s Exhibit #5)
12. The Appellant's assistance unit has a spenddown period that runs from [REDACTED] 2016 through [REDACTED] 2016. (Hearing Summary; Dept.'s Exhibit #5)
13. The Appellant's excess income is multiplied by six months to arrive at her spenddown amount of \$20,228.34. (Hearing Summary; Dept.'s Exhibit #5)
14. The Department determined that the Appellant's assistance unit has to provide \$20,228.34 in paid or unpaid medical expenses during the period of [REDACTED] 2016 through [REDACTED] 2016 to offset the six-month spenddown amount, before her assistance unit would be eligible for medical assistance under the Medicaid program. (Hearing Summary; Dept.'s Exhibit #5)
15. On [REDACTED] 2016, the Appellant reported that her sponsor had signed Affidavit of Support for eight (8) additional non-citizens that he sponsored to the United States. (Appellant's testimony)
16. On [REDACTED] 2016, the Appellant's sponsor provided updated wage stubs for the hearing record to be taken into consideration. (Appellant's Exhibit A: Wage Stubs)
17. Using the updated wage stubs provided by her sponsor, the Department determined the sponsor's monthly projected gross earned income as \$8,257.77; subtracted \$1,651.53, 20% deduction; equals \$6,606.12; minus \$2,633.00, 130% of the FPL for 4; equals \$3,973.12; divided by 9, number of sponsored non-citizens; equals \$441.46 per month to be deemed to the Appellant. (Dept.'s Exhibit #8: MAFI Screen)
18. Using the updated wage stubs provided by her sponsor, the Department determined that the Appellant has zero excess income for the period of [REDACTED] 2016 through [REDACTED] 2016. (Dept.'s Exhibit #8)
19. On [REDACTED] 2016, the Department sent the Appellant a Verification We Need (Form "W-1348") requesting verification of her sponsor's current assets to be due by [REDACTED] 2016. (Dept.'s Exhibit #10: Verification We Need)

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") § 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 adding 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.
3. UPM § 5020.60(A)(2) provides that the Department deems income in accordance with Paragraph A.1 of this section, whether or not the sponsor lives with the non-citizen.
 4. The Department correctly determined that the Appellant is subject to the deeming of her sponsor's income, as provided in the UPM.
 5. 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.

6. Based on reported information at the time, the Department correctly determined the monthly amount of income to be deemed to the Appellant from her sponsor as \$3,894.77 (\$7,038.46, gross earnings; minus \$1,407.69, 20%; equals \$5,630.77; minus \$1,736.00, 130% of the FPL for 2; equals \$3,894.77, deemed income).
7. 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 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.
8. UPM § 4530.15(B) 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.
9. The Department correctly determined that the Appellant's assistance unit consists of one (1) person.
10. The Department correctly determined that the MNIL for the Appellant's assistance unit of one (1) person is \$523.38.
11. UPM § 5020.60(B)(6) provides that the income deemed from the sponsor is treated as unearned income to determine the non-citizen's eligibility.
12. The Department correctly determined that the Appellant's deemed monthly-unearned income as \$3,894.77, based on reported information at the time.
13. The Department correctly calculated the Appellant's monthly applied income as \$3,894.77 (\$3,894.77, deemed income; minus \$0.00, disregard).
14. 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.
15. The Department correctly established the Appellant's current spend-down period as [REDACTED] 2016 through [REDACTED] 2016.
16. 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.
17. 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.
18. The Appellant's six-month spend-down amount is \$20,228.34, (\$3,371.39, monthly excess income; multiplied by 6 months) for the period of [REDACTED] 2016 through [REDACTED] 2016.

19. The Department correctly established a spend-down amount for the Appellant's assistance unit for the period of [REDACTED] 2016 through [REDACTED] 2016, based on the information reported at the time.
20. UPM § 5520.25(B) provides for the "Use of Medical Expenses for Spend-down Process" and 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.
1. Medical expenses are used for a spend-down if they meet the following conditions: a. the expenses must be incurred by 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.
21. UPM § 5520.25(B)(6) provides that expenses used to determine eligibility in the prospective period are used in the categorical and chronological order described previously.
22. Based on the information reported at the time, the Department correctly determined that the Appellant's assistance unit has to provide paid or unpaid medical expenses for the period of [REDACTED] 2016 through [REDACTED] 2016 to offset the six-month spenddown amount, before her assistance unit would be eligible for medical assistance under the Medicaid program.

DECISION

The Appellant's appeal is **DENIED**.



Hernold C. Linton
Hearing Officer

Pc: **Peter Bucknall**, Social Service Operations Manager,
DSS, R.O. # 60, Waterbury

Karen Main, Social Service Operations Manager,
DSS, R.O. # 60, Waterbury

Fair Hearing Liaisons, 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. 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.