

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06106-5033

██████████ 2017
Signature Confirmation

Client ID # ██████████
Hearing ID. # 804138

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2017, the Department of Social Services (the “Department”) issued ██████████ (the “Appellant”) a Notice of Action stating that he must meet a spend-down before his Medical Assistance for the Aged, Blind and Disabled (“MAABD”) can be activated.

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

On ██████████ 2017, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a Notice scheduling an administrative hearing for ██████████ 2017.

On ██████████ 2017 OLCRAH rescheduled the administrative hearing for ██████████ 2017.

On ██████████ 2017, 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
Lindsay Vallee, Department’s Representative
Marci Ostroski, 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 spenddown amount before becoming eligible for Medicaid.

FINDINGS OF FACT

1. On [REDACTED] 2016, the Appellant applied in person at the Department for medical assistance. (Ex. 4: Narrative)
2. The Appellant is requesting medical assistance for himself as a household of one. (Hearing Record)
3. The Appellant is disabled. (Ex. 3: EMS BENDEX screen, Appellant's testimony)
4. The Appellant resides in [REDACTED], CT. (Hearing record)
5. The Appellant received in the 2016 calendar year a gross monthly Social Security Disability benefit of \$1125.00. In the 2017 calendar year the Appellant began receiving \$1129.00 in gross monthly Social Security Disability Benefits. (Ex. 5: EMS UINC screen [REDACTED]/16)
6. On [REDACTED] 2016 the Appellant reported to the Department that he was working and earning approximately \$195.00 per week doing chores. The Department gave the Appellant a 1348 Verification We Need Form requesting completion of a self-employment verification form. (Ex. 4: Narrative)
7. The Department classified the Appellant's income from Social Security and from earnings as unearned income. (Ex. 5: UINC screen)
8. On [REDACTED] 2017, the Department determined that the Appellant has a Medicaid spend-down of \$5121.56 for the period from [REDACTED] 2016, through [REDACTED] 2017. (Ex. 1: Notice of Action dated [REDACTED]/17)
9. At the Administrative Hearing the Appellant reported his self-employment earnings were \$75.00 per week. (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”) § 2540.01(C) 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.
3. UPM § 4530.15(A) 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.
4. UPM § 4510.10(A) 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 § 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 TFA program to an assistance unit of the same size with no income for the appropriate region of residence.
6. UPM § 4510.10(B) provides that Stamford is in Region A.
7. The Department correctly determined that the Appellant resides in Region A and that the MNIL for the Appellant’s assistance unit of one person was \$633.49.
8. UPM § 5050.13(A) provides that income from Social Security and Veterans’ benefits are treated as unearned income in all programs. It further states that this income is subject to unearned income disregards in the AABD and MAABD programs.
9. The Department did not correctly determine the Appellant’s total monthly unearned income.
10. UPM § 5030.15(B)(1)(a) provides that 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 1st thereafter, this disregard shall be increased to reflect the annual cost of living adjustment used by the Social Security Administration. The current disregard is \$339.00.

11. UPM § 5000.01 provides for definitions; Earned Income is income which the assistance unit receives in exchange for the performance of duties or through self-employment and may be in the form of wages, salary, benefits, or proceeds from self-employment.
12. The Department incorrectly failed to classify the income the Appellant receives from doing chores as earned income.
13. UPM § 5030.10 (A) provides for the earned income disregard; except for determining AABD eligibility and benefit levels for assistance units residing in long term care facilities, earned income disregards are subtracted from the assistance unit's monthly total available gross earned income.
14. UPM § 5030.10 (B) provides for the amount of the disregard; The following amounts are disregarded from income earned by the groups indicated:
 1. \$65.00 per month plus 1/2 of the remaining income is disregarded from the earnings of:
 - a. applicants for assistance to the disabled and aged;
15. The Department failed to correctly provide an earned income disregard to the Appellants earnings.
16. The Department incorrectly determined the Appellant's applied income amount.
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 Department incorrectly determined the Appellant's applied income.
22. The Hearing Record is lacking enough information to determine the Appellant's Medicaid eligibility.

DISCUSSION

The Department incorrectly classified the Appellant's earnings as unearned income. This classification error prevented the Department from giving the Appellant the required earned income disregards as outlined above. The calculation of the Appellant's applied income and its comparison to the MNIL is therefore also incorrect.

The incorrect classification of the Appellant's earnings as unearned income also prevented the Department from fully exploring the Appellant's eligibility for the Working Individuals with Disabilities program otherwise known as Medicaid for the Employed Disabled, or the S05 program. The Department is encouraged to explore UPM 2540.85 in evaluating his eligibility for that program.


DECISION

The Appellant's appeal regarding whether the Appellant's income exceeds the Medically Needy Income Limit ("MNIL") for Medicaid is **REMANDED**.

The Appellant's appeal regarding whether the Appellant must meet a spenddown amount before becoming eligible for Medicaid is **REMANDED**.

ORDER

1. The Department will recalculate the Appellant's income from his self-employment as earned income and allow him the appropriate earned income disregards.
2. The Department will explore eligibility for the Appellant under the S05 Medicaid for the Employed Disabled Program.
3. The Department will issue a 1348 to the Appellant for any required verifications and allow a minimum of 10 days to provide the information.
4. Compliance with this order will be due to the undersigned within 15 days of this decision, [REDACTED] 2017.


Marci Ostroski
Hearing Officer

Cc: Rachel Anderson, Operations Manager, Lindsay Vallee, Hearing Liaison, Stamford;
RO #32

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, 25 Sigourney Street, Hartford, CT 06106-5033.

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, 25 Sigourney Street, Hartford, CT 06106. 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.