STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVE.
HARTFORD, CT 06105-3725

[REDACTED] 2017
Signature Confirmation

Client ID # [REDACTED]
Request # 805242

NOTICE OF DECISION

PARTY

[REDACTED]
[REDACTED]
[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED] 2016, the Department of Social Services (the "Department") sent [REDACTED] (the "Appellant") a Notice of Action ("NOA) denying his application for Medicaid benefits under the Medical Assistance for Aged, Blind, and Disabled ("MAABD") program effective [REDACTED] 2016.

On [REDACTED] 2016, the Appellant requested an administrative hearing to contest the Department's decision to deny such benefits.

On [REDACTED] [REDACTED] 2017, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for [REDACTED] 2017.

On [REDACTED] 2017, in accordance with sections 17b-60, 17-61 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] Appellant
[REDACTED] Appellant's Spouse
Al Grande, Department Representative
Marci Ostroski, Hearing Officer

The record remained open for the submission of additional evidence. Exhibits were received from the Appellant and on ████████ 2017 the record closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to deny the Appellant's application for Medicaid under the MAABD Program was correct.

FINDINGS OF FACT

1. Effective ████████ 2016, the Department screened an application for Medicaid under the MAABD program for the Appellant. (Hearing Summary, Ex. 1: Notice of Action ████/16)

2. The Appellant is married and resides with his spouse, ████████ ("Spouse"). (Hearing Record, Appellant's Testimony)

3. On ████████ 2016 the Department processed the Appellant's application for MAABD benefits. The Department discovered through a match with the BENDEX system that the Appellant owned a checking account. The Department sent the Appellant a 1348 Verification We Need form requesting the last three months of bank statements and verification of the spouse's workers comp income. The verifications were due ████████ 2016. (Ex. 4: Narrative)

4. On ████████ 2016 the Department reviewed the verifications sent by the Appellant. The Appellant provided a bank statement from TD bank showing an SSA deposit of $766.00 but with all other balances, deposits, withdrawals, payments, checks paid, and other owners of the account blacked out. The Department was unable to determine the value of the asset with no balances shown. (Ex. 4: Narrative, Ex. 2: Bank statement)

5. On ████████ 2016 the Department sent a second 1348 Verification We Need Form to the Appellant requesting the bank statements without the dollar amounts concealed. The due date for the information was ████████ 2016. The Department also sent a W36 Bank Account Information Form directly to TD bank requesting the current balance. (Ex. 4: Narrative, Ex. 3: W36 Ban Account Information Form)

6. On ████████ 2016 the Department reviewed the verifications received. The Appellant provided the same bank statement with the information blacked out and a note stating that "this is a shared account and any other information is blacked out for that reason". The W36 was received from TD bank showing

a current balance of $3961.00. (Hearing Record, Ex. 2: TD Bank Statement, Ex. 3: W36 Bank Account Information Form)

7. On [redacted] 2016 the Department processed the application, the Department calculated the Appellant's current assets as $3195.00 based on the current balance of the account $3961.00 as verified by TD bank on the W36 minus the Appellant's income from the Social Security Administration of $766.00. (Hearing Summary, Ex. 4: Narrative)

8. The bank statement provided by the Appellant did not show any other income for the Department to deduct from the balance as the statement was blacked out. (Ex. 2: TD Bank statement)

9. The Medicaid asset limit is $2,400.00 for a married couple. (Hearing Summary)

10. The Department determined the Appellant's assets of $3195.00 exceed the Medicaid asset limit of $2,400.00. (Hearing Record)

11. On [redacted] 2016, the Department denied the Appellant's application for Medicaid because the value of your assets is more than the amount we allow you to have. The Department issued a notice of denial to the Appellant. (Ex. 1: Notice of Action [redacted]/16)

12. On [redacted] 2017 the Appellant provided for the hearing record a bank statement from TD bank from the time period of [redacted] 2016 through [redacted] 2016 with a highest monthly balance of $3510.18. The statement shows multiple deposits totaling $4532.22 which the Appellant reported were from "worker's comp, rental, and others". (Ex. B: TD bank statement [redacted]/16-[redacted]/16)

13. The bank statement lists the Appellant as a DBA for a business, [redacted]. There are no other individuals named on the account. (Ex. B: TD bank statement [redacted]/16-[redacted]/16)

CONCLUSIONS OF LAW

1. Section 17b-2(6) of the Connecticut General Statutes provides that the Department of Social Services is designated as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.

2. UPM § 2540.96(C) provides that the Department uses the MAABD medically needy income and asset criteria to determine eligibility under this coverage group, including:

    1. Medically needy deeming rules;
    2. The medically needy income limit (“MNIL”)
    3. The income spenddown-process;
    4. The medically needy asset limits

3. UPM § 4025.65(C) provides that a spouse who is living with the MAABD unit member is a member of the needs group for the purpose of setting the asset limit.

    UPM § 4005.05(A) provides that for every program administered by the Department there is a definite asset limit.

4. UPM § 4005.10(A)(2) provides that the assets limits for the Department’s programs are as follows except as noted under B: AABD and MAABD – Categorically and Medically Needy.

    a. The asset limit of $1,600 for a needs group of one.
    b. The asset limit of $2,400 for a needs group of two.

    UPM 4000.01 defines asset limit is the maximum amount of equity in counted assets which an assistance unit may have and still be eligible for a particular program administered by the Department.

5. The Department correctly determined the asset limit as $2,400.00.

6. UPM § 4005.05(B)(1) provides that the Department counts the assistance unit’s equity in an asset toward the asset limit if the asset is not excluded by state or federal law and is either:

    a. Available to the unit; or
    b. Deemed available to the unit.

    UPM § 4005.05(B)(2) provides that under all programs, except Food Stamps, the Department considers an asset available when actually available to the individual or when the individual has the legal right, authority or power to obtain the asset, or to have it applied for, his or her general or medical support.

    UPM § 4000.01 defines an available asset as cash or any item of value which is actually available to the individual or which the individual has the legal right, authority or power to obtain, or to have applied for, his or her general or medical support.

UPM § 4000.01 defines a deemed asset as an asset owned by someone who is not a member of the assistance unit but which is considered available to the unit.

UPM § 4000.01 defines a counted asset as an asset which is not excluded and either available or deemed available to the assistance unit.

7. UPM § 4025.65(A)(1) provides that the Department deems assets from the individual's spouse to the individual when they are considered to be living together.

8. The Department correctly determined the Spouse as a deemor.

9. UPM § 4020.10(E)(1) provides that tangible business assets such as equipment and supplies, inventory, cash on hand, accounts receivable are excluded if the business produces income sufficient to justify possession of the business assets.

   UPM § 4020.10(E)(2) provides that land and buildings are not excluded under this provision.

10. The Department did not evaluate business assets owned by the Appellant.

11. UPM § 4030.05(A) provides that bank accounts include the following. This list is not all inclusive.

    1. Savings account;
    2. Checking account;
    3. Credit union account;
    4. Certificate of deposit;
    5. Patient account at long-term care facility;
    6. Children's school account;
    7. Trustee account;
    8. Custodial account.

12. UPM § 4030.05(B) provides that part of a checking account to be considered as a counted asset during a given month is calculated by subtracting the actual amount of income the assistance unit deposits in the account that month from the highest balance in the account that month.

13. The Department correctly determined the Appellant's checking account as a countable asset.

14. UPM § 4030.05(C) provides that money which is received as income during a month and deposited into an account during the month is not considered an asset for that month, unless the source of the money is:

    1. An income tax refund; or
    2. Cash received upon the transfer or sale of property;
    3. or a security deposit returned by the landlord.

15. UPM § 4015.05 (B)(1) provides that the burden is on the assistance unit to demonstrate that an asset is inaccessible.

16. Based on the hearing record, the total countable Appellant assets cannot be determined.

17. Based on the hearing record, the total countable business assets cannot be determined.

18. UPM § 4005.05(D)(1) provides that the Department compares the assistance unit's equity in counted assets with the program asset limit when determining whether the unit is eligible for benefits.

19. Based on the hearing record the assistance unit's eligibility for benefits cannot be determined because the assistance unit's countable assets cannot be determined.

DISCUSSION

The MAABD program that the Appellant applied for has an asset limit of $2400 for a household of two. Throughout the application process the Appellant failed to provide sufficient information for the Department to make an accurate determination of his eligibility. Though the burden of proof falls to the Appellant to provide the information, the Department made a good faith effort to assist in acquiring the information directly from the financial institution. At the time of the receipt of the W36, as the Appellant had not been forthcoming with information, the Department was correct to determine eligibility based on only the current balance which exceeded the $2400 limit.

After the administrative hearing the Appellant provided a bank statement that was unedited. The statement did show several deposits which possibly could be excluded as assets and reclassified as income. There was not sufficient information in the record, however, to determine the availability of those assets. The Appellant testified in the hearing that his spouse and daughter are also co-owners of the account however the evidence provided does not support that. The exhibit shows that there is a business under only the name of the Appellant not previously reported. There is not sufficient evidence in the record regarding

the business and the Appellant's other income to determine the amount of assets owned by the Appellant.

DECISION

The Appellant's appeal is **REMANDED** back to the Department for further action.

ORDER

1. The Department will reopen the Appellant's application for Medicaid effective ████ 2016 and continue to process Medicaid eligibility.

2. The Department will issue a 1348 to the Appellant for any outstanding verifications needed to evaluate the transactions in the checking account to determine if they are considered as assets or income according to policy. The Department will determine if the business has a value as an asset and will request all necessary verifications from the Appellant to make the determination. The Department must allow a minimum of ten days to the Appellant to submit any outstanding information.

3. Compliance with this order is due ████ 2017 and will consist of a copy of the STAT screen showing pending status of the S99 application.

Marci Ostroski
Fair Hearing Officer

CC: Peter Bucknall, Karen Main, Social Services Operations Managers
Al Grande, Hearing Liaison, Waterbury Regional office

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.