

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

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

Client # ██████████  
Request # 816447

**NOTICE OF DECISION**

**PARTY**

██████████  
██████████  
██████████

**PROCEDURAL BACKGROUND**

On ██████████ 2017, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") stating that his income exceeds the limits for the Medical Assistance for the Aged, Blind and Disabled ("MAABD") program and he must meet his spend-down amount of \$13,304.88 before his medical assistance can be activated.

On ██████████ 2017, 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 the administrative hearing for ██████████ 2017.

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  
██████████ Appellant's Witness and Interpreter  
Agnes Bernard, Department's Representative  
Sybil Hardy, Hearing Officer

The hearing record remained open for the submission of additional evidence. On [REDACTED] 2017, the hearing record closed.

A copy of this hearing decision will be mailed to you in Mandarin Chinese.

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

### **FINDINGS OF FACT**

1. The Appellant is requesting medical assistance for himself. (Appellant's Testimony, Exhibit 2: Assistance Status ["STAT"] Screen)
2. The Appellant is married and lives with his spouse.
3. The Appellant and his spouse reside in [REDACTED], Connecticut, which is located in geographic region B. (Appellant's Testimony, Exhibit 2)
4. The Appellant is a lawful permanent resident and his daughter, [REDACTED], is his sponsor. (Exhibit 1: Eligibility Management System ["EMS"] Narrative Screen, Exhibit 6: Department of Homeland Security Case Verification, Exhibit 7: Sponsor(s) of Non-Citizens Information Sheet ["W-727"])
5. The Appellant's daughter is his sponsor and does not live in the same household. (Appellant's Testimony)
6. The Appellant's sponsor resides in [REDACTED], Connecticut with her three minor children. (Appellant's Testimony)
7. The Appellant is 75 years old (DOB [REDACTED]/41) and his spouse is 72 years old (DOB [REDACTED]/44). (Exhibit 6)
8. The Appellant is categorically eligible for the MAABD program. (Hearing Record)
9. The Appellant and his spouse do not have any income of their own. (Appellant's Testimony)
10. On [REDACTED] 2017, the Department updated the Appellant's sponsor's financial responsibility code because the Department noticed that his sponsor's was coded as

a non-member on the Appellants assistance unit financial responsibility and her earned income was not counted as part of the Appellant's household income. (Exhibit 1)

11. [REDACTED] Connecticut (the "employer"), employs the Appellant's Sponsor full time. (Exhibit 8: Wage Stubs from [REDACTED])
12. The Appellant's sponsor received the following wages from her employer:

Date Paid	Hours Worked	Gross Amount
[REDACTED]/16	36	\$ 861.72
[REDACTED]/16	40	\$ 967.87
[REDACTED]/16	36	\$ 917.47
[REDACTED]/16	40	\$1,058.82

(Exhibit: 8)

13. On [REDACTED] 2017, the Department sent the Appellant of NOA indicating that his household income exceeded the income limits for the medical assistance under the MAABD program and that his total spend-down amount is \$13,304.88 for the current six-month period of [REDACTED] 2017 through [REDACTED] 2017. (Exhibit 1, Exhibit 2)
14. The Appellant did not provide the Department with any unpaid medical expenses. (Appellant's Testimony, Hearing Summary)

### **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 two residing in Region B.
9. The Department correctly determined that the MNIL for the Appellant’s assistance unit for two person(s) is \$696.41.
10. UPM 5020.60(A) provides for circumstances under which income is deemed for sponsors of non-citizens.
  1. 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-864) 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 9 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) of behalf of the non-citizen; and
- d. The sponsor is an individual rather than an institution; and
  - e. None of the exceptions et forth in Paragraph C of this section are applicable.
2. The Department deems income in accordance with Paragraph A.1 of this section, whether or not the sponsor lives with the non-citizen.
  3. The Department deems income in accordance with Paragraph A.1 until one of the following events occurs:
    - a. The non-citizen becomes a citizen of the United States; or
    - b. The non-citizen works 40 qualifying quarters, ad defined under title II of the Social Security Act, or
    - c. The non-citizen is credited for having worked 40 qualifying quarters if, beginning January 1, 1997, the qualifying quarters were worked when the non-citizen did not receive any federal means-tested public benefit, and either
      - (1) The qualifying quarters were worked by a parent of such non-citizen while the non-citizen was under 18 years of age; or
      - (2) The qualifying quarters were worked by a spouse of such non-citizen during the couple's marriage and the non-citizen remains married to such spouse or such spouse is deceased; or
      - (3) The non-citizen or the sponsor dies.
  4. 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. The amount is prorated for the non-citizen if the sponsor is also sponsoring other non-citizen's eligibility.
    6. This income 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
11. UPM 5020.60(C) provides in part that the Department does not deem the income of the non-citizen's sponsor and the sponsor's spouse to the non-citizen under the following circumstances: Indigence, battery or extreme cruelty and good cause.

12. The Department correctly determined that the Sponsor's income and asset information was needed to determine eligibility for the Appellant.
13. The Department correctly determined that the Appellant has not requested an exemption from deeming of the Appellant's sponsor income due to indigence, battery or extreme cruelty, and good cause.
14. UPM § 5025.05(A)(1) provides for converting income to monthly amounts and states for past months the Department uses the exact amount of the unit's available income received or deemed in the month.  
Or  
  
UPM § 5025.05(B)(2) provides that if income is received on other than a monthly basis, the estimate of income is calculated by multiplying 4.3 by a representative
15. The Department correctly determined that the sponsor's earned income was \$4,091.32 (\$861.72, █████/16 + \$967.87, █████/16 + 917.47, █████/16 + 1,058.82, 10/17/16).
15. UPM § 5030.15(B)(1) provides that the Department uses the following unearned income disregards, as appropriate under the circumstances described:
  - a. 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.
16. The Department correctly applied the current standard unearned income disregard of \$339.00 to the Appellant's income.
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 correctly determined that the Appellant's applied income exceeds the MNIL by \$2,217.48 (\$2,913.89, total Income – \$696.41 MNIL) per month from [REDACTED] 2017 through [REDACTED] 2017.
22. The Department correctly determined that the Appellant's six month spend-down amount is \$13,304.88 (\$2,217.88 x 6 months) for the period from [REDACTED] 2017 through [REDACTED] 2017.
23. The Department correctly determined that the Appellant's income exceeds the MNIL for the MAABD program and that he must meet a spend-down.
24. 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.
25. The Department correctly determined that the Appellant must provide verification of current liability for the unpaid medical expenses.

### DECISION

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

  
Sybil Hardy  
Hearing Officer

Pc: Cheryl Parsons, Operations Manager, DSS R.O. # 40, Norwich  
Agnes Bernard, Fair Hearings Liaison, DSS R.O. # 40, Norwich

### **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.