

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 Id: # ██████████  
Hearing Id: # 823560

**NOTICE OF DECISION**

**PARTY**

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

**PROCEDURAL BACKGROUND**

On ██████████ 2017, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a notice indicating his income exceeds the limits for the Medical Assistance for the Aged, Blind and Disabled ("MAABD") program and he must meet a spenddown amount of \$2,355.72 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 ██████████ 2017, OLCRAH, at the Appellant's request, issued a notice rescheduling the administrative hearing for ██████████ 2017.

On ██████████ 2017, OLCRAH, at the Appellant's request, issued a notice rescheduling the administrative hearing for ██████████ 2017.

On ██████████ 2017, OLCRAH, at the Appellant's request, issued a notice rescheduling the administrative hearing for ██████████ 2017.

On [REDACTED] 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 by telephone.

The following individuals participated at the hearing:

[REDACTED] the Appellant  
[REDACTED] Appellant's Representative  
Christine Faucher, Department's Representative  
Christopher Turner, Hearing Officer

On [REDACTED] 2017, the hearing record closed after receipt of four exhibits from the Appellant.

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether the Department's action to place the Appellant's Medicaid Assistance for the Aged, Blind, or Disabled ("MAABD") in spenddown status was correct.

### **FINDINGS OF FACT**

1. On [REDACTED] 2017, the Department completed a review of the Appellant's Medicaid assistance. (Exhibit J: Notice dated [REDACTED]/17; Exhibit K: Department's narrative)
2. The Appellant is an assistance unit of one. (Record; Appellant's testimony)
3. The Appellant resides alone in the town of [REDACTED] [REDACTED] (Record; Appellant's testimony)
4. The Appellant receives \$1,255.00 gross monthly Social Security Disability ("SSD") benefit. (Exhibit G: Unearned Income; Hearing summary; Appellant's testimony)
5. The Appellant is a recipient of the Department's Medicare Savings Program. (Record; Department's testimony)
6. The Appellant has a support dog that helps him with mobility issues. (Appellant's Exhibit 4: Service Dog ID; Appellant's testimony)
7. The Appellant has an overdue veterinary bill from Stafford Veterinary Hospital totaling \$406.20. (Appellant's Exhibit 3: Stafford Veterinary)
8. On [REDACTED] 2017, the Appellant submitted a \$168.59 paid [REDACTED]/17 veterinary bill from Fenton River after the hearing. (Exhibit 4)

9. On [REDACTED] 2017, the Appellant submitted an \$11.01 paid [REDACTED]/17 veterinary bill from Fenton River after the hearing. (Exhibit 4)
10. On [REDACTED] 2017, the Appellant submitted an \$11.01 paid [REDACTED]/17 veterinary bill from Fenton River after the hearing. (Exhibit 4)
11. On [REDACTED] 2017, the Appellant submitted a \$36.01 paid [REDACTED]/17 veterinary bill from Fenton River after the hearing. (Exhibit 4)
12. The Appellant has submitted unpaid medical bills to the Department for evaluation. (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 (A) provides in order to qualify for Medicaid; an individual must meet the conditions of a least one coverage group.
3. UPM § 2540.01 (C) (3) provides individuals who qualify as Medically Needy if their income either: (a) is within the Medically Needy Income Limit ("MNIL"); or (b) can be reduced to the MNIL by a spenddown of medical expenses (cross reference : 5520)
4. UPM § 2540.96 (A) provides for the MAABD coverage group to include individual who:
  1. meet the MAABD categorical eligibility requirements of age, blindness, or disability; and
  2. are not eligible as categorically needy; and
  3. meet the medically needy income and asset criteria.
5. The Department correctly determined the Appellant is disabled under the MAABD program.
6. UPM § 4510.10 (A) (1) provides the State of Connecticut is divided into three geographic regions based on similarity in the cost of housing.
 

UPM § 4510.10 (A) (2) provides separate standards of need are established for each state region.

UPM § 4510.10 (B) provides that Tolland is part of Region B.
7. The Department correctly determined that the Appellant resides in Region B.

8. UPM § 4510.10 (A) (3) provides 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.

UPM § 5515.05 (C) (2) provides in part that the needs group for a MAABD unit includes the following: (a) the applicant or recipient; and (b) the spouse of the applicant or recipient when they share the same home regardless of whether one or both applying for or receiving assistance, except in cases involving working individuals with disabilities.

9. The Department correctly determined that the Appellant is a needs group of one.
10. UPM § 4530.15 (A) (1) provides that a uniform set of income standards is established for all assistance units who do not qualify as categorically needy.

UPM § 4530.15 (A) (2) provides that the MNIL of an assistance unit vary 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 (B) provides that the MNIL is the amount equivalent to 143 percent of the benefit amount that ordinarily would be paid under the AFDC (TFA) program to an assistance unit of the same size with no income for the appropriate region of residence.

11. The Temporary Family Assistance grant for one residing in Region B is \$366.00.
12. The Department correctly determined that the MNIL for the Appellant's assistance unit for one person is \$523.38 ( $\$366.00 * 1.43$ ).
13. UPM § 5050.13 (A) (1) provides that income from Social Security is treated as unearned income for all programs.
14. The Department correctly determined that the Appellant's total gross monthly-unearned income is \$1,255.00.
15. UPM § 5030.15 (A) provides that except as provided in section 5030.15 (D), unearned income disregards are subtracted from the unit member's total gross monthly unearned.

UPM § 5030.15 (B) (1) (a) provides that the disregard was \$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 thereafter, this disregard shall be increased to reflect the annual cost of living adjustment used by the Social Security Administration. Effective January 1,

2017, the disregard is \$339.00 for those individuals who reside in their own homes in the community.

16. UPM § 5045.10 (C) (1) provides that except for determining Aid to the Aged, Blind, and Disabled (“AABD”) eligibility and benefit amounts for individuals residing in long term care facilities, applied unearned income is calculated by reducing the gross unearned income amount by the appropriate disregard based upon living arrangements.
17. UPM § 5050.13 (A) (2) provides that Social Security income is subject to unearned income disregards in the AABD and MAABD programs.
18. The Department correctly calculated the Appellant’s applied unearned income as \$916.00 (\$1,255.00 unearned income - \$339.00 standard disregard).
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 spenddown process.
20. The Department correctly determined that the Appellant’s applied income exceeded the MNIL by \$392.62 per month (\$916.00 – \$523.38).
21. 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.

UPM § 5520.25 (B) (1) provides medical expenses are used for a spend-down if they meet the following conditions: a. the expenses must be incurred by the 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 providers or to a lender for a loan used to pay the providers, 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.

UPM § 5520.25 (B) (3) provides medical expenses are used in the following order of categories and, within each category, chronologically starting with the oldest bills: a. first, Medicare and other health insurance premiums, deductibles, or coinsurance charges. Medical insurance premium expenses which exist at the time of the processing of the application which are reasonably anticipated to exist for the six month prospective period are considered as a six-month projected total; b. then, expenses incurred for necessary medical and remedial services that are recognized under State Law as medical costs but not covered by Medicaid in Connecticut; c.

finally, expenses incurred for necessary medical and remedial services recognized under State law as medical costs and covered by Medicaid in Connecticut.

The Americans with Disabilities Act (“ADA”) defines **Service animals as dogs that are individually trained to do work or perform tasks for people with disabilities**. Examples of such work or tasks include guiding people who are blind, alerting people who are deaf, pulling a wheelchair, alerting and protecting a person who is having a seizure, reminding a person with mental illness to take prescribed medications, calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack, or performing other duties. Service animals are working animals, not pets. The work or task a dog has been trained to provide must be directly related to the person’s disability. Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA. (ADA 2010 Disability Rights Section)

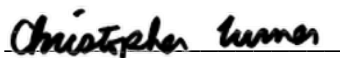
22. The Department correctly determined that the Appellant’s six month spenddown amount is \$2,355.72 (\$392.62 excess \* 6 months).

### **DISCUSSION**

The Department, at the time of processing the Appellant’s MAABD redetermination, was correct to place the Appellant’s Medicaid Assistance into a spenddown based on his income exceeding the MNIL. The Department is **ordered** to use the Appellant’s veterinary bills for the current spenddown period in keeping with the Department’s interpretation of an assistance dog. The Appellant may submit additional medical bills to the Department any time for evaluation.

### **DECISION**

The Appellant's appeal is denied.

  
Christopher Turner  
Hearing Officer

Cc: Elizabeth Thomas, Operations Manager Manchester  
Christine Faucher, DSS Manchester

### **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, law, and 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, if 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.