

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

██████████ 2018
Signature Confirmation

Client Id. # ██████████
Hearing Id. # 118293

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") stating that she must meet a spenddown before Medicaid would be activated for her.

On ██████████ the Appellant requested an administrative hearing to contest the Department's decision.

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

On ██████████, the Appellant requested a continuance of the hearing due to illness, which OLCRAH granted.

On ██████████, OLCRAH issued a notice rescheduling the administrative hearing for ██████████.

On ██████████ 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:

██████████, the Appellant
Rosalie Bertolini, Department Fair Hearing Liaison, Danbury,
Maureen Foley-Roy, Hearing Officer

The hearing officer held the record open for the submission of additional evidence. On ██████████, the record closed.

STATEMENTS OF THE ISSUE

The first issue is whether the Applicant's income exceeds the Medically Needy Income Limit ("MNIL") for Medicaid.

The second issue is whether the Applicant must meet a spenddown amount before being eligible for Medicaid.

FINDINGS OF FACT

1. On ██████████, the Department discontinued the Appellant's HUSKY A-Medicaid benefits for pregnant women because the Appellant was unable to provide proof of pregnancy. (Exhibit 1: Notice Reasons and Appellant's testimony)
2. The Appellant receives monthly benefits of \$699 from Social Security Disability and \$71 from Supplemental Security ("SSI"). (Appellant's testimony and Department's summary)
3. The Appellant is married to an undocumented resident and he earns \$200 per week in cash. (Appellant's testimony and Department's summary)
4. The Department did not apply any disregards to the Appellant's spouse's earned income. (Department representative's testimony)
5. The Appellant's household consists of herself and her husband. There are no children in the household at this time. (Appellant's testimony)
6. The Appellant is a recipient of Medicare A and B and the Department has granted assistance with the premiums. The Appellant is in need of dental work, which is not covered by her Medicare.(Department's summary and Appellant's testimony)

7. The Department determined that the Appellant must meet a spenddown of \$2489.46 for the period from [REDACTED] 2018 through [REDACTED] 2018 before becoming eligible for medical assistance. (Exhibit 3: MA Spenddown Printout)

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”) § 2540.01A provides that in order to qualify for medical assistance, an individual just meet the conditions of at least one coverage group.
3. UPM § 5500.01 provides that a needs group is the group of persons comprising the assistance unit and certain other persons whose basic needs are added to the total needs of the assistance unit members when determining the income eligibility of the assistance unit.
4. UPM § 5515.05 C 2 a and b provides in part that the needs group for an Medical Assistance for the Aged, Blind and Disabled (“MAABD”) unit includes the applicant or recipient and 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.
5. UPM § 2015.05(A) provides that the assistance unit in Assistance to the Aged, Blind or Disabled (“AABD”) and MAABD consists of only one member. In these programs, each individual is a separate assistance unit.
6. The Department correctly determined that the Appellant is in a needs group of two persons and an assistance unit of one member.
7. UPM § 5050.13(A) (1) provides that income from Social Security is treated as unearned income for all programs.
8. UPM § 5050.13(A)(2) provides that Social Security income is subject to unearned income disregards in the Aid to the Aged, Blind, and Disabled (“AABD”) and Medicaid for the Aid to the Aged, Blind, and Disabled (“MAABD”) programs.
9. UPM § 5030.15(B)(1)(a) provides that the disregard is \$339 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.

10. The Department was correct when it determined that the Appellant's applied unearned income was \$360 per month. (\$699 - \$339)
11. UPM § 5020.75 A 1 a provides that the Department deems income from the spouse of an MAABD applicant or recipient if he or she is considered to be living with the assistance unit member.
12. The Department was correct when it determined that her husband's income must be deemed to the Appellant.
13. UPM § 5025.05(B)(2)(d) 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 weekly amount that is determined as follows: if the income is received other than on a weekly or monthly basis, the income is converted to a representative weekly amount by dividing the income by the number of weeks covered.
14. The Department was correct when it determined that the Appellant's spouse earns \$860 per month. (\$200 X 4.3)
15. UPM § 5020.75 C 4 provides for the deeming methodology and states that deemed income is calculated from parents and from spouses in the same way for members of the MAABD coverage group as in AABD.
16. UPM § 5020.70 C 3 b provides for calculating the amount of deemed income and states that the when the spouse has not applied for AABD or has applied and been determined to be ineligible for benefits, the amount deemed to the unit from the unit member's spouse is calculated in the following manner: the deemor's self-employment earnings are reduced by self-employment expenses, if applicable, and the **deemor's gross earnings are reduced by deducting the following personal employment expenses, as appropriate, (1) mandatory union dues and costs of tools, materials, uniforms or other protective clothing when necessary for the job and not covered by the employer, (2) proper federal income tax based upon the maximum number of deductions to which the deemor is entitled, (3) FICA, group life insurance, health insurance premiums, or mandatory retirement plans, (4) lunch allowance at .50 per working day,(5) transportation allowance to travel to work at the cost per work day as charged by private conveyance or at .12 cents per mile by private car or in a car pool.** Mileage necessary to take children to or pick them up from a child care provider may also be included. (Emphasis added)

17. UPM § 5020.70 C 3 d provides that the combined total of the deemor's gross unearned income and applied earned income after the appropriate deductions are made is deemed available to the assistance unit member.
18. The Department did not correctly determine the income deemed from the Appellant's spouse because it did not apply the appropriate personal employment expenses to his earnings.
19. 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 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.
20. 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 program to an assistance unit of the same size with no income for the appropriate region of residence.
21. UPM § 4510.10B 1 provides that Danbury is part of Region A.
22. The Department correctly determined that the Appellant resides in Region A.
23. The Temporary Family Assistance grant for two persons residing in Region A is \$563.
24. The MNIL for two persons residing in region A is \$805.09. ($\$563 \times 143\%$).
25. The Department correctly determined that the MNIL for the Appellant's needs group of two persons residing in Region A was \$805.09.
26. 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.
27. 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.
28. 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.

29. The Department cannot correctly determine if the Appellant's income exceeds the MNIL because it did not correctly calculate the deemed income from the Appellant's spouse when it did not apply the appropriate personal employment expenses.

DISCUSSION

The Appellant's Social Security benefit and her husband's earnings represent the household's entire income. The Appellant testified that her husband is an undocumented resident but he is employed and is paid \$200 in cash weekly. That income is earned and is subject to the personal employment expenses listed in COL #16. Due to the circumstances, it is unlikely that there will be deductions for taxes, medical insurance, etc. but at the very least, the earnings would be subject to deductions for transportation, lunch and any equipment that he must pay for out of pocket.

It is noted that while the deemed income was not calculated correctly, it is still likely that combination of the correctly deemed income and income from Social Security exceeds the medically needy income limit.

DECISION

The Appellant's appeal is The Appellant's appeal is **REMANDED BACK TO THE DEPARTMENT FOR FURTHER ACTION.**

ORDER

The Department is ordered to obtain the number of miles the Appellant's spouse drives to work and recalculate the deemed income by allowing all of the appropriate deductions noted in the COL #16 above to the Appellant's spouse's earnings. The Department shall then determine the Appellant's eligibility for the HUSKY C MAABD medical assistance program.

Compliance with this order is due by [REDACTED] 2018 and shall consist of documentation that the Department has determined eligibility for the HUSKY C MAABD program using the correctly deemed income.



Maureen Foley-Roy
Hearing Officer

- **Pc: Carol Sue Shannon, DSS Operations Manager, Danbury
Rosalie Bertolini, Fair Hearing Liaison, DSS, Danbury**

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 06105-3723.

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.