

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

[REDACTED]
Signature Confirmation

CL ID # [REDACTED]
Request ID #125432

NOTICE OF DECISION

PARTY

[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED], the Department of Social Services (the "Department") sent [REDACTED] (the "Appellant") a Notice of Action ("NOA") stating that she must meet a spend down before her Medicaid can be activated.

On [REDACTED], the Department of Social Services (the "Department") sent [REDACTED] (the "Appellant") a Notice of Action ("NOA") stating that she met her spend down effective for [REDACTED].

On [REDACTED], the Appellant requested an administrative hearing to contest the Department's action.

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

On [REDACTED], 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:

[REDACTED], Appellant
Romina Gomes, Department's Representative
Joseph Alexander, Department's Representative
Miklos Mencseli, Hearing Officer

STATEMENT OF THE ISSUE

1. The first issue is whether the Appellant's income exceeds the Medically Needy Income Limit ("MNIL") of the Medicaid program.
2. The second issue is whether the Appellant met her spend-down amount prior to [REDACTED] as determined by the Department.

FINDING OF FACTS

1. On [REDACTED], the Department received the Appellant's redetermination for Medicaid assistance. (Exhibit 1: Department's Case Notes)
2. On [REDACTED], the Department processed the Appellant's redetermination for Medicaid assistance. (Summary, Exhibit 2: NOA dated [REDACTED])
3. The Appellant receives medical assistance for herself. (Summary, Appellant's Testimony)
4. The Appellant's only income is \$992.00 monthly she receives from the Social Security Administration ("SSA"). (Summary, Exhibit 17: Department's ImpaCT Bendex printout, Appellant's Testimony)
5. The Appellant's monthly applied income is \$653.00, (\$992.00 monthly SSA income; minus \$339.00, standard deduction equals \$653.00). (Summary, Department's Testimony)
6. The Department determined the Appellant's monthly applied income of \$653.00 exceeds the Medically Needed Income Limit (MNIL) of \$523.38 for a household size of one. (Summary)
7. The Department calculated a 6 month spend down amount of \$777.72 for the Appellant (\$653.00 applied income amount minus \$523.38 = \$129.62 x 6 months = \$777.72). (Summary, Exhibit 1)
8. On [REDACTED], the Department granted the Appellant Medicaid with a spend down of \$777.72 for the period from [REDACTED] [REDACTED] (Exhibit 2: NOA dated [REDACTED])
9. On [REDACTED] the Department received the following documents from the Appellant as medical expenses to be applied toward her spenddown amount:
 - BJ's Optical Invoice dated [REDACTED] (1 page)
 - Pearl Vision statement for service date [REDACTED] (1 page)
 - Optimus Health Care, Inc. Payment Receipts [REDACTED]
 - [REDACTED]
 - Walgreens Prescription Profile for the period of [REDACTED] (16 pages)

- Black Rock Turnpike CVS, Inc. Patient Prescription Record for [REDACTED] (1 page). (Exhibit 3: Documents received on [REDACTED])
10. The Department determined only the BJ's optical invoice dated [REDACTED] could be applied toward the spenddown. (Summary)
 11. The other medical expenses were determined to have not been incurred during the spenddown period and had been paid. (Exhibit 3: Documents received [REDACTED], Exhibit 4: Department's Case Notes dated [REDACTED])
 12. On [REDACTED], the Department sent the Appellant a NOA stating her Medicaid spend down is \$647.52 for the period from [REDACTED] to [REDACTED]. (Exhibit 6: NOA dated [REDACTED])
 13. The Department reviewed the medical expenses and determined the Optimus Health Care, Inc. Payment Receipts dated [REDACTED] could be used toward the spend down amount. (Exhibit 5: Case Notes dated [REDACTED])
 14. On [REDACTED], the Department received the following documents from the Appellant as medical expenses to be applied toward her spenddown amount:
 - Walgreens Prescription Profile showing for the period of [REDACTED] (9 pages)
 - GNC, Walmart and BJ's receipts (1 page)
 - Anton RAO, O.D. & Associates Doctor Statements/Insurance Report (1 page)
 - Cohen's Fashion Optic receipts (1 page). (Exhibit 7: Documents received on [REDACTED])
 15. On [REDACTED], the Department determined only the Walgreen prescription for \$3.35 could be applied toward the spenddown. (Summary, Exhibit 8: Department's Case Notes dated [REDACTED])
 16. The other medical expenses were not eligible as the vitamin/supplement needs a medical provider's note is stating they are medically necessary. The other documents had unacceptable verification of the expense. (Exhibit 8: Case Notes date [REDACTED])
 17. On [REDACTED], the Department sent the Appellant a NOA stating her Medicaid spend down is \$644.17 for the period from [REDACTED] to [REDACTED]. (Exhibit 9: NOA dated [REDACTED])
 18. On [REDACTED], the Department received the following documents from the Appellant as medical expenses to be applied toward her spenddown amount:
 - Cohen's Fashion Optical sale receipts (1 page)
 - Cohen's Fashion Optical Service Descriptions (3 pages)
 - Anton RAO, O.D. & Associates Doctor Statements and Insurance Report

(1 page). (Exhibit 12: Documents received on [REDACTED])

19. On [REDACTED], the Department determined the Cohen's Fashion Optics expense incurred on [REDACTED] for \$719.00 could be applied toward the Spenddown. (Summary, Exhibit 13: Department's Case Notes dated [REDACTED])
20. The Appellant's spenddown amount was met and her Husky C coverage was activated effective on [REDACTED] with an eligibility period of [REDACTED] [REDACTED] (Summary, Exhibit 13, Exhibit 14: Department's Medical Spenddown printout, Exhibit 15: Department's Medical Expenses Printout, Exhibit 11: NOA dated [REDACTED])
21. The medical expenses provided were enough to meet the spenddown amount when the initial receipts were received by the Department. (Appellant's Testimony)
22. The Appellant's effective date should be earlier than [REDACTED] as she provided enough medical expenses to activate her medical coverage. (Appellant's Testimony)
23. Because the Department activated her coverage on [REDACTED], she has medical eligibility only until [REDACTED]. (Appellant's Testimony)
24. The Appellant's next spenddown period is effective for [REDACTED]. (Exhibit 11: NOA dated [REDACTED] Appellant Testimony)

CONCLUSION 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") § 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 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.
3. 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 AFDC program to an assistance unit of the same size with no income for the appropriate region of residence.
4. The Department correctly determined that the MNIL for the Appellant's assistance unit for one person was \$523.38.

5. UPM § 5050.13(A) (1) provides that income from Social Security is treated as unearned income for all programs.
6. The Department correctly determined that the Appellant's total monthly unearned income was \$992.00.
7. 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.
8. 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 income.
9. UPM § 5030.15(B)(1)(a) provides that the disregard is \$339.00 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.
10. The Department correctly determined that the Appellant's applied income was \$653.00 (\$992.00 monthly SSA income; minus \$339.00, standard deduction).
11. 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.
12. 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.
13. 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.
14. The Department correctly determined that the Appellant's applied income exceeds the MNIL by \$129.62 (\$653.00 applied income minus \$523.38 MNIL) per month.
15. The Department correctly determined that the Appellant's six-month spend down amount is \$777.72 (\$129.62 x 6 months) for the period from March 1, 2018 through August 31, 2018.

16. UPM § 5520.25 provides for the use of Medical Expenses for Spend-down process.

B. Medically Needy Cases

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.

1. Medical expenses are used for a spend-down if they meet the following conditions:
 - a. the expenses must be incurred by 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.
2. The unpaid principal balance which occurs or exists during the spend-down period for loans used to pay for medical expenses incurred before or during the spend-down period, is used provided that:
 - a. the loan proceeds were actually paid to the provider; and
 - b. the provider charges that were paid with the loan proceeds have not been applied against the spend-down liability; and
 - c. the unpaid principal balance was not previously applied against spend-down liability, resulting in eligibility being achieved.
3. 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.
 4. When unpaid loan principal balances are used, they are categorized by the type of expense they were used to pay, as in B.3.
 5. Expenses used to determine eligibility in a retroactive period are used in the following order:
 - a. unpaid expenses incurred anytime prior to the three-month retroactive period; then
 - b. paid or unpaid expenses incurred within the three-month retroactive period but not later than the end of the retroactive month being considered; then
 - c. an unpaid principal balance of a loan which exists during the retroactive period.
 6. Expenses used to determine eligibility in the prospective period are used in the categorical and chronological order described previously.
 7. Income eligibility for the assistance unit exists as of the day when excess income is totally offset by medical expenses:
 - a. Any portion of medical expenses used to offset the excess income are the responsibility of the unit to pay.
 - b. Medical expenses which are recognized as payable under the State's plan and which are remained unpaid at the time eligibility begins are paid by the Department provided the expenses were not used to offset income.
17. The Department correctly determined that the medical expenses provided by the Appellant on [REDACTED] did not exceed the total amount of the Appellant's spenddown amount to active her medical benefits.
18. The Department correctly determined the Appellant met her spenddown amount with the submission of the medical expenses from Cohen's Fashion Optical received on [REDACTED] incurred on [REDACTED].
19. The Department correctly activated the Appellant's medical assistance effective for [REDACTED].

DISCUSSION

The Department correctly determined the Appellant income exceeds the MNIL limit for one. The Department correctly determined the six month spend down amount. The Appellant is concerned that her medical was activated on [REDACTED], leaving her eligible only until [REDACTED]. Her new spenddown period begins [REDACTED]. The Appellant submitted medical expenses on [REDACTED] to the Department. The acceptable documents do not total more than her spenddown amount. Some were not considered as they are outside the acceptable time period to be used. The Appellant did not meet her spenddown amount until the documents submitted on [REDACTED] to the Department from Cohen's Fashion Optics with the expense incurred date of [REDACTED] for \$719.00 could be applied toward the remaining spenddown balance amount.

DECISION

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



Miklos Mencseli
Hearing Officer

C: Fred Presnick, Operations Manager. DSS R.O. #30 Bridgeport

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.