

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

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

CL ID # ██████████  
Request ID #125452

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 spend down of \$471.72 for the period from ██████████ 2018 through ██████████, 2018 before her Medicaid can be activated.

On ██████████, the Appellant requested an administrative hearing because she disagrees with the Department's determination of the spenddown and the amount.

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

On ██████████ the Appellant contacted OLCRAH to request a continuance of the hearing because she had sprained both of her ankles.

On ██████████, OLCRAH issued a notice rescheduling an administrative hearing for ██████████

On ██████████, the Appellant contacted OLCRAH to request a continuance of the hearing because the time conflicted with her physical therapy appointment.

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

On [REDACTED], 2018, 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  
[REDACTED], Sr, the Appellant's ex-husband and representative  
Garfield White, Fair Hearing Liaison, DSS, Hartford  
Maureen Foley-Roy, Hearing Officer

The hearing officer held the record open for the submission of additional evidence. The record closed on [REDACTED] 2018

### **STATEMENT OF THE ISSUE**

The issue is whether the Department was correct when it used the Appellant's gross Social Security benefit to determine eligibility for HUSKY C Medically Needy benefits resulting in a spenddown amount of \$471.72 for the period from [REDACTED] 2018 through [REDACTED], 2018.

### **FINDING OF FACTS**

1. The Appellant receives a gross monthly benefit of \$941 from Social Security Disability. (Exhibit C: Unearned Income Details screen and Appellant's Exhibit 1: [REDACTED] 2018 letter from Social Security)
2. The Appellant has no income other than the Social Security benefit. (Hearing record)
3. The Appellant is on Medicare and is a recipient of the Medicare Savings Program wherein the Department is paying for her Medicare premiums, co-pays and deductibles. (Exhibit G: Notice of Action dated [REDACTED] 2018)
4. Social Security withholds \$45 per month from the Appellant's benefit check due to a previous overpayment. The Appellant actually receives \$896 a month from Social Security. As of [REDACTED] [REDACTED], 2018, the remaining overpayment balance was \$2,295.00. (Appellant's Exhibit 1)
5. There was no evidence provided for the hearing as to the time frame of when the overpayment occurred and whether the overpaid benefits were used to calculate Medicaid eligibility at that time. (Hearing record)
6. On [REDACTED] 2018, the Department sent the Appellant a notice advising her that her income exceeded the HUSKY income limit and she must meet a

spenddown of \$471.72 in the spenddown period of [REDACTED] 2018 through [REDACTED] [REDACTED] 2018 before her medical could be activated. (Exhibit G: Notice of Action dated [REDACTED], 2018)

### 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") § 5050.66 C 3 provides for reductions in income due to recovery of overpayments in the Medical Assistance for the Aged, Blind ("MAAB") program and **states that when money is withheld from an income source to recoup an overpayment, the amount of income to be counted is the amount the household would receive if no withholding had occurred unless: the income was received concurrently with MAABD assistance at the time the overpayment occurred and the overpaid amount was included in determining the MAABD benefit.** (Emphasis added)

**The Department was correct when it used the Appellant's gross benefit in determining the amount of her spenddown because there was no evidence that the Appellant was receiving MAABD assistance at the time the overpayment occurred.**

3. 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.
4. UPM § 4510.10(B) 2 provides that [REDACTED] is part of Region B.
5. 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.
6. The Department correctly determined that the MNIL for the Appellant's assistance unit for one person was \$523.38.
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(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.
10. 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 thereafter, this disregard shall be increased to reflect the annual cost of living adjustment used by the Social Security Administration.
11. The Department correctly determined that the Appellant's applied income was \$602.00 (\$941.00 monthly SSA income; minus \$339.00, standard deduction.)
12. 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.
13. 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.
14. 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.
15. The Department correctly determined that the Appellant's applied income exceeds the MNIL by \$78.62 (\$602 applied income minus \$523.38 MNIL) per month.
16. **The Department correctly calculated the Appellant's six-month spend down amount as \$471.72 (\$78.62 x 6 months) for the period from [REDACTED] 2018 through [REDACTED] 2018.**

### DISCUSSION

The issue that the Appellant has with the Department's calculations and the spenddown is that the Department is using her gross Social Security benefit which includes \$45 that the Social Security administration is withholding to repay a previous overpayment.

The regulations are clear and specific in that the gross amount is to be used in the calculation unless the Appellant was on Medicaid at the time of the overpayment and that amount was used in determining eligibility at that time.

The Appellant could not recall the dates that she was overpaid by Social Security and therefore it could not be established if she was on Medicaid during that time period, which is the only case wherein the Department would disregard the withheld amount in determining eligibility. The undersigned held the hearing record open to give the Appellant an opportunity to provide evidence of the time period of the Social Security overpayment but it was not presented.

If the Appellant provides evidence of the dates that she was overpaid by Social Security and she was on Medicaid during that time period, the Department can review her eligibility and recalculate any future spenddowns. Based upon the available evidence, the Department was correct when it placed the Appellant's Title 19 Medicaid benefits in a spenddown of \$471.72 for the period from [REDACTED] through [REDACTED] of 2018.

### DECISION

The Appellant's appeal is DENIED.



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**Maureen Foley-Roy,  
Hearing Officer**

CC: Jessica Carroll, Musa Mohamud, Judy Williams, Operations Manager. DSS R.O. #10, Hartford

Jay Bartolomei, Fair Hearing Liaison Supervisor, DSS R.O.#10, Hartford

Garfield White, Fair Hearing Liaison, DSS R.O #10, Hartford

### **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.