

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

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

Client ID # ██████████
Request # ██████████

NOTICE OF DECISION

PARTY

██████████
██████████

PROCEDURAL BACKGROUND

On ██████████, 2018, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") approving Medicaid benefits under the Medically Needy for Aged, Blind, and Disabled Program ("MAABD") under a spenddown effective ██████████ 2018.

On ██████████, 2018, the Appellant requested an administrative hearing to contest the Department's action.

On ██████████ 2018, 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:

██████████, Appellant
Jorge Alvarado, Department's Representative
Shelley Starr, Hearing Officer

The hearing record was held open for the submission of additional evidence from the Department. The additional evidence was received. On ██████████ 2018, the hearing record closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department is correct that the Appellant must be on a Medicaid spenddown program to become eligible for MAABD coverage.

FINDINGS OF FACT

1. The Appellant is [REDACTED] years old [REDACTED]. (Appellant's Testimony)
2. The Appellant's assistance unit consists of one member. (Hearing Record: Appellant's Testimony)
3. The Appellant receives Social Security Disability ("SSDI") benefits of \$1,070.00 per month. (Hearing Summary; Exhibit 4: Unearned Income Details)
4. The Appellant is enrolled in Medicare Part A and B and is active on the Medicare Savings Plan Qualified Medicare Beneficiaries program which pays the Appellant's Medicare Part B monthly premiums. (Appellant's Testimony; Hearing Record; Exhibit 6: Notice of Action dated [REDACTED], 2018)
5. The Appellant resides in [REDACTED], Connecticut which is located in Geographical Region B. [REDACTED] is responsible for \$700.00 per month in rent. (Hearing Record; Appellant's Testimony)
6. The Appellant has been a recipient of the MAABD spenddown program and was in a spend-down period effective [REDACTED], 2018 through [REDACTED] 2018. (Exhibit 7: Case Notes; Hearing Record)
7. On [REDACTED] 2018, the Department discovered the recording of a double entry of the Appellant's \$1,070.00 per month Social Security Disability income. (Exhibit 7: Case Notes; Hearing Record)
8. On [REDACTED] 2018, the Department erroneously deleted all Social Security Disability income, reflecting zero income and removed the Appellant from the MAABD spenddown. (Exhibit 7: Case Notes; Hearing Record)
9. On [REDACTED], 2018, the Department corrected the Appellant's record to reflect his Social Security Disability income of \$1,070.00 per month. (Exhibit 7: Case Notes; Hearing Record)

10. The Appellant was active Medicaid without a spend-down in the months of [REDACTED] of 2018, due to Department error. (Department's Testimony; Exhibit 7: Case Narrative; Hearing Record)
11. The Medically Needy Income Limit ("MNIL") under the MAABD program is \$523.38. (Hearing Record)
12. The Department anticipates the Appellant to be on a MAABD spend-down effective [REDACTED] 2018, due to the Appellant's income exceeding the Husky C income limit. (Hearing Summary; Department's Testimony; Hearing Record)
13. The Appellant is aggrieved because [REDACTED] has been having extensive dental treatment during the time that he has been active Medicaid without a spenddown, and he will need to continue treatment that he cannot afford when he is back on the MAABD spenddown. (Appellant's Testimony; Hearing Record)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes provides that the Department of Social Services is designated as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Uniform Policy Manual ("UPM") § 2540.01 (A) provides that in order to qualify for medical assistance, an individual must meet the conditions of at least one coverage group.

UPM 2540.01(C) provides that individuals qualify for medical assistance ("MA") as medically needs 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.

UPM § 5515.05 (C)(2) provides in part that the needs group for an MAABD unit includes the following: the applicant or recipient. (Cross reference: 2540.85)

3. UPM § 4530.15 (A) 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.

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.

UPM § 4510.10(A)(1) provides that 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.

UPM § 4510.10 (B)(2) provides N Grosvenordale is a part of Region B.

The Appellant is a needs group of one residing in Region B with the MNIL for the Appellant’s assistance unit of \$523.38.

4. UPM § 5050.13(A)(1) provides that income from Social Security is treated as unearned income in all programs.

The Department correctly determined the Appellant’s total monthly unearned income from Social Security Disability as \$1,070.00

5. UPM § 5050.13(A)(2) provides that Social Security income is subject to an unearned income disregard in the AABD and MAABD programs.

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.

UPM § 5030.15(C)(2)(a) provides that all of the disregards used in the AABD programs are used to determine eligibility for MAABD.

UPM § 5030.15(B)(1)(a) provides for the standard disregard as \$339.00 [effective 1/1/18] 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. The current unearned income disregard is \$339.00.

The standard unearned income disregard is \$339.00 per month.

6. UPM § 5045.10(C)(1) provides that except for determining 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.

UPM § 5045.10(E) provides that the assistance unit's total applied income is the sum of the unit's applied earnings, applied unearned income, and the amount deemed.

The Appellant's total applied income is \$731.00 (\$1,070.00 - \$339.00).

7. 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.

UPM § 5520.20(B)(5)(a) 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.

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.

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.

The Appellant's applied income will exceed the MNIL by \$207.62 per month (\$731.00 - \$523.38 = \$207.62).

The Appellant's prospective six-month spend-down is \$1,245.72 (\$207.62 x 6)

8. 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 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.

UPM § 5520.25 (B)(7) provides that income eligibility for the assistance unit exists as of the day when excess income is totally offset by medical expenses.

The Department correctly determined that the Appellant's monthly income will exceed the MNIL and the Appellant will be on a Medicaid spend-down program.

The Department correctly determined the Appellant will need to meet a spend-down in order to become eligible for medical benefits under the MAABD program because [REDACTED] income exceeds the Medically Needy Income Limit.

The Appellant is encouraged to submit [REDACTED] medical expenses to the Department to determine if his expenses can be applied to the anticipated spend-down.

DECISION

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


Shelley Starr
Hearing Officer

cc: Tonya Cook-Beckford, DSS, Willimantic
Jorge Alvarado, DSS Representative

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.