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

[redacted] **2018**
Signature Confirmation

Client Id. # [redacted]
Hearing Id. # 125993

NOTICE OF DECISION

PARTY

[redacted]

[redacted] 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 spenddown before Medicaid would be activated for her.

On [redacted] 2018, the Appellant requested an administrative hearing to contest the Department's failure to act on medical bills submitted for the spenddown.

On [redacted], 2018, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for [redacted], 2018.

On [redacted], 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:

[redacted], the Appellant
[redacted], witness for the Appellant, Mental Health CT
[redacted], Department of Mental Health Services
Lindsey Vallee, Department Fair Hearing Liaison, Stamford
Maureen Foley-Roy, Hearing Officer

The hearing officer held the record open for the submission of additional evidence from the Appellant. On [redacted], 2018, the Hearing officer received a packet of information from the Appellant that had been dropped off at the [redacted] Office on [redacted] 2018. The documentation consisted of duplicate notices and copies of some of the Department's summary and exhibits. On [redacted] 2018, the record closed.

STATEMENTS OF THE ISSUE

The issue is whether the Appellant submitted sufficient medical bills to meet her spenddown and whether the Department correctly considered the bills as expenses to be used to meet the spenddown amount.

FINDINGS OF FACT

1. The Appellant receives monthly benefits of $1073 from Social Security Disability. (Exhibit 2: Bendex Inquiry Details))

2. The Appellant is a household of one. (Hearing Record)

3. On [redacted], the Appellant's Medicaid discontinued for failure to complete the renewal. (Department's and Appellant's Testimony)

4. On [redacted] the Department sent the Appellant a NOA indicating she was approved for a spenddown period from [redacted] 2018 to [redacted], 2018 with a spenddown amount of $603.06. The NOA also states that the Appellant was approved only for the months [redacted] and [redacted]2018 and closed effective [redacted]/18. (Exhibit 9, NOA,[redacted]18)

5. On [redacted], the Appellant reapplied for Medicaid and the Department determined that the Appellant's income exceeded the Medically Needy Income Limit of 1 by $100.51 per month. (Hearing Summary)

6. The Department created a spenddown for the period from [redacted] 2018 to [redacted], 2018, which is a 7 month period of eligibility. (Exhibit 1: NOA, [redacted]/18)

7. The Department's NOA states the Appellant's excess income for the spenddown period is $603.06, which an excess for a 6 month period of eligibility ($100.51 x 6= $603.06).

8. The Department offered no explanation as to why the spenddown was created for a 7 month period but the excess was computed for a 6 month period. (Hearing Record)

9. On [redacted], the Appellant submitted medical bills from [redacted] Livery Company and the [redacted] Pharmacy to meet her spenddown. The medical bills were not submitted for the hearing record. (Exhibit 4: Case Notes, [redacted]/18; Hearing Record)

10. The Department applied the medical bills from Finding of Fact # 9 to the Appellant's spenddown and activated her medical assistance. The Department's records do not state what date the spenddown became active. (Exhibit 4)

11. On [redacted], the Department sent the Appellant a Spend Down Notice which stated that it reviewed her expense of $0.00 for Part A medical expense and her spenddown amount remains at $603.06. (Exhibit 5: Spend Down Notice, [redacted]/18)

12. There is no evidence that the Department sent the Appellant a NOA regarding the medical bills from Finding of Fact # 9. (Hearing Record)

13. On [redacted], the Appellant requested a hearing because the Department had not responded to the medical bills she had submitted to meet her spenddown. (Hearing Request, [redacted]/18)

14. On [redacted], the day prior to the hearing, the fair hearing liaison reentered the bills submitted on [redacted], 2018 and activated the spenddown. (Exhibit 4)

15. The issuance of this decision is timely under Section 17b-61(a) of the Connecticut General Statutes, which requires that a decision be issued within 90 days of the request for an administrative hearing. The Appellant requested an administrative hearing on [redacted] 2018 and the closing of the record was extended for 14 days at the Appellant's request; therefore, this decision is due no later than [redacted], 2018. (Hearing Record)

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.

   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.

   The Department correctly determined that the Appellant is a needs group of one person and an assistance unit of one member.

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

   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.

   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.

   The Department was correct when it determined that the Appellant's applied unearned income was $734.00 per month ($1073- $339).

5. 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.

   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.

   UPM § 4510.10B 1 provides that [redacted] is part of Region A.

The Department correctly determined that the Appellant resides in Region A.

The Temporary Family Assistance grant for one person residing in Region A is $443.

The MNIL for one person residing in region A is $633.49 ($443 X 143%).

The Department correctly determined that the MNIL for the Appellant's needs group of one person residing in Region A was $633.49.

The Department correctly determined that the Appellant's applied income of $734 per month exceeds the MNIL of $633.49 per month by an excess of $101.51 per month.

6. 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) 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 spenddown process.

7. UPM § 1555.25 A provides that assistance units incurring a change in circumstances are notified of actions taken by the Department which affect eligibility or benefit level.

The Department incorrectly created a spenddown period of 7 months. The spenddown period should be from [redacted] 2018 to [redacted], 2018.

The Department correctly calculated a spenddown amount of $603.06 for a 6 month period.

The Department did not show how it determined the medical expenses submitted by the Appellant on [redacted], 2018 were used for the current spenddown period; however, the Department activated the Appellant's spenddown effective [redacted] 2018.

The Department was incorrect when it failed to send the Appellant appropriate notice of the actions taken with regards to the medical expenses submitted by the Appellant for her spenddown.

DISCUSSION

The Appellant testified that the issue of her hearing was not the spenddown amount but the process governing the entering of the bills to meet the spenddown. There is no question that the Appellant's income exceeds the medically income limit and the spenddown is appropriate. The Department presented conflicting information and notices for this hearing. The case notes indicate that the Appellant presented bills, met the spenddown and the medical was activated on [redacted] 24th. The Appellant stated that she did not have medical coverage at that time and indeed the notice sent on [redacted] 24th state that the bills that she submitted were not accepted. The hearing liaison testified that she reentered the bills prior to the hearing and activated the medical. The liaison also testified that the Appellant's medical was discontinued in [redacted] for "an unknown reason" and had to be reopened and reactivated, again causing the Appellant to be without coverage for certain time periods. Although the Department refers to the spenddown as a six month period, the notice refers to a 7 month period.

The Appellant questioned the regulations as to the standard of promptness for the Department to enter bills to meet the spenddown. While the undersigned did not find regulations concerning such, the Department's procedures, as stated in the HUSKY health letter to recipients on spenddown, provide that the spenddown processing center will respond within 5 days of receiving medical expenses. If the expenses were not acceptable, the Department would need to send notification of such. If the bills were acceptable to meet the spenddown, the medical should be activated.

DECISION

The appeal is **GRANTED** in regards to the fact that the Department must provide the Appellant with a notice regarding when her medical bills were accepted for the spenddown and the effective date that her Medicaid became active.

ORDER

The Department must issue a notice to the Appellant advising her of the date that her medical expenses were accepted for the spenddown and the date that she met the spenddown and her Medicaid was activated.
Compliance with this order is due by [redacted] 2018 and shall consist of documentation that the Appellant was properly notified of her spenddown status.

Maureen Foley-Roy
Hearing Officer

- Pc: Yecenia Acosta, Operations Manager, DSS, Stamford
- Lindsay Vallee, Hearing Liaison, Stamford

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.