

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#: ██████████

NOTICE OF DECISION

PARTY

██████████

PROCEDURAL BACKGROUND

On ██████████, 2017, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a notice of action indicating her application for Medicaid for the Aged, Blind, and Disabled ("MAABD") was granted with a \$11,861.10 spenddown.

On ██████████, 2017, the Appellant submitted an unsigned request for an administrative hearing.

On ██████████, 2017, the Department received the Appellant's signed request for an administrative hearing to contest the Department's decision to place her Medicaid assistance into spenddown status.

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

On ██████████, 2018, OLCRAH, at the Appellant's request, issued a notice rescheduling the administrative hearing for ██████████, 2018.

On ██████████, 2018, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-189 inclusive, of the Connecticut General Statutes, the Department held an administrative hearing.

The following individuals were present at the hearing:

██████████, Appellant
██████████, Appellant's Representative
Tammy Ober, Department's Representative
Christopher Turner, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department was correct to place the Appellant's Medicaid assistance in spenddown status.

FINDINGS OF FACT

1. On ██████████ 2011, the Appellant, DOB ██████████ entered the United States as a lawful permanent resident. (Exhibit 3: Department's narrative)
2. The Appellant was sponsored by her daughter, ██████████, with whom she resides. The Appellant's spouse is deceased. (Appellant's testimony)
3. The Appellant's sponsor has two adult children who do not live with her. (Exhibit 5A: W-727 Department's Sponsor's Information form; Hearing summary; Appellant's testimony)
4. On ██████████, 2017, the Appellant applied for Medicaid benefits for herself. (Exhibit 1: Eligibility Determination Document; Exhibit 3: Department's narrative; Hearing summary)
5. The Appellant is not employed and does not have 40 registered quarters of work history in the United States. (Record; Testimony)
6. The Appellant is not receiving Supplemental Security Income (SSI). (Record)
7. The Appellant's daughter earns \$3,208.34 twice a month for a total of \$6,416.68. (Exhibit 6: Wage verification)
8. The SNAP gross income limit for a household of three (130% FPL) is \$2,213.00. (Record)
9. On ██████████ 2017, the Department granted the Appellant's Medicaid assistance with a spenddown. (Exhibit 7: Notice dated ██████████/17)
10. The Appellant's application was granted without consideration of the sponsor's assets. (Hearing summary)

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") 2540.01 (A) provides in order to qualify for Medicaid; an individual must meet the conditions of a least one coverage group.

UPM § 2540.01 (C) (3) provides individuals who qualify as Medically Needy if their income either: (a) is within the Medically Needy Income Limit ("MNIL"); or (b) can be reduced to the MNIL by a spenddown of medical expenses (cross reference: 5520)

UPM § 2540.96 (A) provides for the MAABD coverage group to include individual who: 1. meet the MAABD categorical eligibility requirements of age, blindness, or disability; 2. are not eligible as categorically needy; and 3. meet the medically needy income and asset criteria.

The Department correctly determined the Appellant is considered aged under the MAABD program.

3. UPM § 4510.10 (A) (1) provides the State of Connecticut is divided into three geographic regions based on similarity in the cost of housing.

UPM § 4510.10 (A) (2) provides separate standards of need are established for each state region.

UPM § 4510.10 (A) (3) provides 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) provides that [REDACTED] is part of Region B.

The Department correctly determined that the Appellant resides in Region B and is a needs group of one.

4. UPM § 4530.15 (A) (1) provides that a uniform set of income standards is established for all assistance units who do not qualify as categorically needy.

UPM § 4530.15 (A) (2) provides that the MNIL of an assistance unit vary according to: (a) the size of the assistance unit and (b) 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 (TFA) program to an assistance unit of the same size with no income for the appropriate region of residence.

The Department correctly determined the Region B TFA grant for one is \$366.00 monthly.

The Department correctly determined that the MNIL for the Appellant's assistance unit for one person is \$523.38 (\$366.00 * 1.43).

5. UPM § 3005.08 (B) provides for eligible non-citizens arriving in the U.S. on or after August 22, 1996 and:
 10. Has lawfully resided in the U.S. for at least five years and:
 - a. is lawfully admitted to the U.S. for permanent residence under the Immigration and Nationality Act.

The Appellant arrived in the U.S. after August 22, 1996.

The Appellant has lawfully resided in the U.S. for more than five years, which makes her an eligible non-citizen.

6. UPM § 5020.60 provides for sponsors of non-citizens who entered the U.S. on or after August 22, 1996 and executed the revised affidavit of support (I-864) or the contract between sponsor and household member (I-864A). A. Circumstances under which income is deemed.
 1. The Department deems the income of a non-citizen's sponsor and the sponsor's spouse, if the spouse signed the Revised Affidavit of Support (I-864) or the Contract Between Sponsor and Household Member (I-864A) to the non-citizen under the following circumstances:
 - a. the sponsor and the sponsor's spouse are not members of the same assistance unit as the non-citizen; and
 - b. the non-citizen must have a sponsor under USCIS rules; and
 - c. the sponsor and the sponsor's spouse have executed an Affidavit of Support (I-864) or the Contract Between Sponsor and Household Member (I-864A) pursuant to 8 U.S.C. § 1183a (a) section of the Personal Responsibility and Work Opportunity Act of 1996, amending Title II of the Immigration and Nationality Act by adding section 213(a) on behalf of the non-citizen; and
 - d. the sponsor is an individual rather than an institution; and
 - e. none of the exceptions set forth in Paragraph C of this section are applicable.

UPM § 5020.60 (A) (2) provides the Department deems income in accordance with A.1 of this section, whether or not the sponsor lives with the non-citizen.

UPM § 5020.60 (A) (3) provides the Department deems income in accordance with Paragraph A.1 until one of the following events occurs:

- a. the non-citizen becomes a citizen of the United States; or
- b. the non-citizen works 40 qualifying quarters, as defined under Title II of the Social Security Act; or
- c. the non-citizen is credited for having worked 40 qualifying quarters if, beginning January 1, 1997, the qualifying quarters were worked when the non-citizen did not receive any federal means-tested public benefit, and either (1) the qualifying quarters were worked by a parent of such non-citizen while the non-citizen was under 18 years of age; or (2) the qualifying quarters were worked by a spouse of such non-citizen during the couple's marriage and the non-citizen remains married to such spouse or such spouse is deceased; or (3) the non-citizen or the sponsor dies.

The Department correctly determined the Appellant has not obtained U.S. citizenship.

The Department correctly determined the Appellant does not have 40 qualifying work quarters.

The Department correctly determined the Appellant's sponsor's income is deemed to the Appellant.

7. UPM § 5020.60 (B) provides the computation of the amount of deemed income. The amount of income deemed from a sponsor and the sponsor's spouse is calculated in the following manner: 1. income which is excluded from consideration for assistance unit members is excluded from the sponsor's income; 2. self-employment earnings are adjusted by subtracting the applicable self-employment expenses; 3. the gross monthly earned income amount is reduced by 20% to allow for personal work expenses; 4. ***the remaining earnings plus gross unearned income is totaled and reduced by the Supplemental Nutrition Assistance Program Gross Income Limit as determined by the family size of the sponsor and any other person who is claimed or could be claimed by the sponsor or the sponsor's spouse as a dependent for federal income tax purposes***; 5. this amount is prorated for the non-citizen if the sponsor is also sponsoring other non-citizens; and 6. this amount is deemed to the assistance unit as unearned income to determine the non-citizen's eligibility. 7. In addition to the amount deemed, any amount in excess of the deemed amount which is paid by the sponsor to each non-citizen is also counted as unearned income.

$\$6,416.68 \text{ earnings} * 20\% = \$1,283.34. \$6,416.68 - \$1,283.34 = \$5,133.34.$

$\$5,133.34 - \$2,213.00 = \$2,920.34.$

The amount of the sponsor's income deemed to the Appellant is \$2,920.34.

8. UPM § 5030.15 (B) (1) (a) provides that the disregard was \$227.00 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 1 thereafter, this disregard shall be increased to reflect the annual cost of living adjustment used by the Social Security Administration. Effective January 1, 2018, the disregard is \$339.00 for those individuals who reside in their own homes in the community.

UPM § 5045.10 (C) (1) provides that except for determining Aid to the Aged, Blind, and Disabled ("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.

The Appellant's applied unearned income is \$2,581.34 (\$2,920.34 deemed income - \$339.00 standard disregard.

9. UPM § 5520.20 (B) provides the following method is used to determine the assistance unit's eligibility in the prospective period: 1. 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. 2. The needs group which is expected to exist in each of the six months is established. 3. An MNIL is determined for each of six months is determined on the basis of: a. the anticipated place of residency of the assistance unit in each of the six months; and b. the anticipated composition of the needs group for each of the same six months. 4. The assistance unit's applied income is estimated for each of the six months. 5. 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: a. when the unit's total applied income equals or is less than the total MNIL's the assistance unit is eligible; b. when the unit's total applied income, is greater than the total MNIL's 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.

UPM § 5520.25 (B) (1) provides medical expenses are used for a spend-down if they meet the following conditions: a. the expenses must be incurred by the 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 providers or to a lender for a loan used to pay the providers, 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.

The Department correctly calculated the Appellant's six-month period of eligibility as [REDACTED] 2017 through [REDACTED], 2018.

The Appellant's applied income exceeded the MNIL by \$2,057.96 per month (\$2,581.34 – \$523.38).

The Appellant's six month spenddown amount is \$12,347.76 (\$2,057.96 excess * 6 months

DISCUSSION

Department policy specifies that for Medicaid, an eligible non-citizen who has a sponsor, the sponsor's income and assets must be considered in the eligibility determination. Although the Department's spenddown calculation of \$11,861.10 is somewhat different from the undersigned's of \$12,347.76, the Department's action to place the Appellant's AABD assistance into spenddown status is correct.

This decision does not address the reason why the Appellant's application was granted without consideration of the sponsor's assets.

DECISION

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

Christopher Turner
Hearing Officer

Cc: Tyler Nardine, Operations Manager, Norwich
Tammy Ober, DSS Norwich

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 06105-3725.

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 06105-3725. 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.