

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 (“NOA”) stating that she must meet a spenddown before her Medicaid can be activated.

On ██████████ 2017, the Appellant requested an administrative hearing to contest the Department’s action.

On ██████████ 2017, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a Notice scheduling the administrative hearing for ██████████, 2017.

On ██████████ 2017, 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:

██████████, Appellant
Sara Hart, Department’s Representative
Scott Zuckerman, Hearing Officer

STATEMENTS OF THE ISSUE

The first issue is whether the Appellant's income exceeds the Medically Needy Income Limit ("MNIL") for Medicaid.

The second issue is whether the Appellant must meet a spenddown amount before being eligible for Medicaid.

The third issue is whether the Department was correct to reject unpaid medical expenses to apply toward the spenddown.

FINDINGS OF FACT

1. On [REDACTED] 2017, the Appellant requested medical assistance for herself. (Exhibit 1: Case notes dated [REDACTED]/17)
2. The Appellant resides alone. (Appellant Testimony)
3. The Appellant is disabled. (Hearing Record)
4. The Appellant is enrolled in Medicare Part A. (Hearing Record)
5. The Appellant receives monthly benefits from Social Security Disability in the amount of \$1327.00. (Appellant Testimony, Hearing Summary, Exhibit 3: MAABD – Income Test)
6. On [REDACTED], 2017, the Department granted the Appellant's Medicaid Spenddown of \$2787.72 for the period from [REDACTED] 2017 through [REDACTED] 2018. (Hearing Summary, Exhibit 2: MA- Spend-down screen shot, Ex. 7: Notice dated [REDACTED]7)
7. On [REDACTED] 2017, the Department received a Statement from [REDACTED] with charges for [REDACTED] 2017 of \$1423.00. The bill was not applied toward the spenddown as it did not reflect third party liability payment. (Exhibit 1: Case notes [REDACTED]7 and Exhibit 9: Medical bill from [REDACTED], [REDACTED]/17)
8. On [REDACTED] 2017, the Department applied \$105 in medical expenses from [REDACTED] date of service [REDACTED] 2017. The remaining spenddown for the period of [REDACTED] 2017 through [REDACTED] 2018 was \$2682.72. (Exhibit 1: Case Notes [REDACTED]7 and Exhibit 8: Husky Health spenddown letter, [REDACTED] 17)
9. On [REDACTED] 2017, the Department discovered that the Appellant declined enrollment in Medicare part B in 2015 when she was eligible to

enroll. The Appellant has since enrolled. Medicare Part B will not begin until [REDACTED] 2018 due to a penalty period from Social Security. (Appellant's Testimony, Department's testimony)

10. On [REDACTED], 2017, OLCRAH conducted an administrative hearing. (Hearing Record)
11. The Department rejected unpaid medical bills due to no third party payment from Medicare Part B. (Department's testimony)

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") § 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. UPM § 4510.10 (B)(2) provides for the regional breakdown of the state by cities and towns and states that [REDACTED] is included in Region B.
5. The Department correctly determined that the MNIL for the Appellant's assistance unit for one person residing in Region B was \$523.38.
6. UPM § 5050.13(A) (1) provides that income from Social Security is treated as unearned income for all programs.
7. UPM § 5025.05(A)(1) provides for converting income to monthly amounts and states for past months the Department uses the exact amount of the unit's available income received or deemed in the month.
7. UPM § 5025.05(B)(2)(a) provides that if income is received on other than a monthly basis, the estimate of income is calculated by multiplying 4.3 by a representative weekly amount that is determined as follows: if income is the

same each week, the regular weekly income is the representative weekly amount.

8. The Department correctly determined that the Appellant's total monthly unearned income was \$1327.00 (\$1327.00 Social Security Disability benefits).
9. 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.
10. 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.
11. UPM § 5030.15(B)(1)(a) provides for the Standard Disregard and states that the disregard is \$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 1st thereafter, this disregard shall be increased to reflect the annual cost of living adjustment used by the Social Security Administration.
12. UPM § 5030.15 (B)(1)(c) provides for the Special Disregard and states that that the disregard is \$294.90 for those Individuals who share non-rated housing with at least one person who is not related to them as a parent, spouse or child. This does not apply to individuals who reside in shelters for battered women or shelters for the homeless. 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.
13. The Department correctly applied the current standard unearned income disregard of \$339.00 per month to the Appellant's income.
14. The Department correctly determined that the Appellant's applied income was \$998.00. (\$1327.00 unearned income - \$339.00 disregard = \$988.00).
15. 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.
16. 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.

17. 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.
18. UPM § 5520.25 (B)(7) provides in part 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. Income eligibility for the assistance unit exists as of the day when excess income is totally offset by medical expenses.
19. Title 42 of the Code of Federal Regulations (CFR) § 435.831 (d) provides for deduction of incurred medical expenses and states that if countable income exceeds the income standard, the agency must deduct from income medical expenses incurred by the individual or family or financially responsible relatives that are not subject to payment by a third party. An expense is incurred on the date liability for the expense arises. The agency must determine deductible incurred expenses in accordance with paragraphs (e), (f) and (g) of this section and deduct those expenses in accordance with paragraph (h) of this section.
20. UPM § 5520.25(B) (1) (b) provides that 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.
21. The Department correctly determined that the Appellant's applied income exceeds the MNIL by \$464.62 ($\$988.00 - \$523.38 = \464.62).
22. The Department correctly determined that the Appellant's six-month spenddown amount is \$2787.72 ($\464.62×6 months) for the period from [REDACTED] 2017 through [REDACTED] 2017.
23. The Department correctly determined that the Appellant's income is over the MNIL and that the Appellant must meet a spenddown to become eligible for Medicaid.
24. The Department incorrectly rejected unpaid medical bills to be used to offset the excess income due to the Appellant declining Medicare part B coverage in 2015.

DISCUSSION

The Department's determination that the Appellant's income is over the Medically Needy Income limit and that she must meet a spenddown to become eligible for Medicaid is upheld. However, the Department's decision

that the Appellant's unpaid medical bills be rejected to offset the spenddown is not upheld.

The Appellant testified that in 2015 she declined enrollment in Medicare Part B. The Department testified that this was verified with Social Security and the Appellant will be enrolled as of [REDACTED] 2018. There is no provision in Departmental policy or regulations that medical bills will not be used to offset a spenddown due to declining to enroll in Medicare Part B.

DECISION

The Appellant's appeal is **DENIED in part and GRANTED in part.**

ORDER

1. The Department will apply the bills that were rejected from [REDACTED] and any other bills toward her spenddown provided the medical expenses were not used in a prior spenddown period and are deductible expenses.
2. Compliance with this order is due to the undersigned by [REDACTED] 2018.

Scott Zuckerman
Hearing Officer

Pc: Tonya Cook-Beckford, Operations Manager, DSS, Willimantic Office
Sara Hart, Fair Hearing Liaison, DSS, Willimantic Regional Office

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. 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.