

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

██████████, 2019  
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 Medicaid Assistance for Aged, Blind, and Disabled Program (“MAABD”) under a spenddown effective ██████████ 2018. The letter stated that must meet a \$3,747.72 spenddown before her Medicaid Husky C can be activated.

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

On ██████████ ██████████ 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████, 2019.

On ██████████, 2019, the Appellant requested a reschedule of the administrative hearing.

On ██████████, 2019, OLCRAH issued a notice rescheduling the administrative hearing for ██████████, 2019.

On ██████████ ██████████, 2019, the Appellant requested a reschedule of the administrative hearing.

On ██████████ 2019, OLCRAH issued a notice rescheduling the administrative hearing for ██████████, 2019.

On [REDACTED], 2019, 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 via telephone.

The following individuals participated in the hearing via telephone:

[REDACTED], Appellant  
Ferris Clare, Department's Representative  
Erika Beebe, Department's Representative  
Marci Ostroski, Hearing Officer

### **STATEMENT 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 becoming eligible for Medicaid.

### **FINDINGS OF FACT**

1. The Appellant's assistance unit consists of one member. (Hearing Record and Appellant's Testimony)
2. The Appellant is disabled. (Appellant's testimony, Hearing Record)
3. In [REDACTED] 2018, the Appellant received Social Security ("SSA") benefits in the amount of \$1,487.00 per month. (Ex. A: Notice of Action, [REDACTED]/18, Ex. B: Notice of Action, [REDACTED]/18, Appellant's Testimony)
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. (Ex. A: Notice of Action, [REDACTED]/18, Ex. B: Notice of Action, [REDACTED]/18, Department's Testimony)
5. The Appellant has been a recipient of the Medicaid MAABD program under a spenddown. On [REDACTED] 2018, the Department completed the Appellant's redetermination for the Medicaid MAABD spenddown program. (Hearing summary, Ex. A: Notice of Action, [REDACTED]/18)
6. On [REDACTED] 2018, the Department sent the Appellant a NOA approving her Medicaid Husky C- Medically Needy Aged, Blind, Disabled -

Spenddown program for the period [REDACTED] 2018 through [REDACTED], 2019. (Ex. A: Notice of Action, [REDACTED]/18)

7. On [REDACTED] 2018, the Department sent the Appellant a NOA which stated that the amount of her MAABD spenddown is \$3747.72
8. The Appellant has not submitted any medical bills to apply toward the spenddown for the current period. (Appellant's testimony, Hearing Summary)
9. The Medically Needy Income Limit ("MNIL") under the MAABD program is \$523.38. (Hearing Record)
10. The issuance of this decision is timely under section 17b-61(a) of 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. This decision, therefore, was due no later than [REDACTED], 2019. The hearing, however, which was originally scheduled for [REDACTED], 2019, was rescheduled for [REDACTED] 2019, at the request of the Appellant, which caused a 26-day delay. The hearing rescheduled for [REDACTED], 2019, was again rescheduled at the request of the Appellant for [REDACTED], 2019, which caused an additional 17 day delay. Because these 43-day delays resulted from the Appellant's request, this decision is not due until [REDACTED] 2019, and is therefore timely. (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.
3. UPM 2540.01(C) provides that individuals qualify for medical assistance ("MA") as medically needy 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.

4. 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)
5. The Department correctly determined the Appellant’s needs group consists of one member.
6. 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.
7. 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.
8. 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.
9. The Department correctly determined that the Appellant is a needs group of one residing in Region B with the MNIL for the Appellant’s assistance unit of \$523.38.
10. UPM § 5050.13(A)(1) provides that income from Social Security is treated as unearned income in all programs.
11. The Department correctly determined the Appellant’s total monthly unearned income from Social Security Disability as \$1,487.00.
12. UPM § 5050.13(A)(2) provides that Social Security income is subject to an unearned income disregard in the AABD and MAABD programs.
13. 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.

14. UPM § 5030.15(C)(2)(a) provides that all of the disregards used in the AABD programs are used to determine eligibility for MAABD.
15. 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 1<sup>st</sup> 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.
16. The Department correctly applied the standard unearned income disregard of \$339.00 per month.
17. 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.
18. 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.
19. The Department correctly calculated the Appellant's total applied income of \$1148.00 (\$1487.00 - \$339.00).
20. 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.
21. 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.
22. 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.
23. 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.

24. The Department correctly determined that the Appellant's applied income exceeds the MNIL by \$624.62 per month ( $\$1148.00 - \$523.38 = \$624.62$ ).
25. The Department correctly determined that the Appellant's prospective six-month spend-down is \$3747.72 ( $\$624.62 \times 6$ ) for the period of [REDACTED] 2018 through [REDACTED], 2019.
26. 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.
27. 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.
28. The Department correctly determined that the Appellant's monthly income exceeds the MNIL and correctly placed the Appellant under the Medicaid spend-down program.
29. The Department correctly determined the Appellant needs to meet a spend-down in order to become eligible for medical benefits under the MAABD program because her income exceeds the Medically Needy Income Limit.
30. The Department correctly calculated the Appellant's spend-down amount of \$3747.72 for the period from [REDACTED] 2018 through [REDACTED] 2019.
31. The Appellant is encouraged to submit her medical expenses to the Department to determine if her expenses can be applied to the anticipated spend-down amount.

### **DISCUSSION**

The Department was correct to place the Appellant's Medicaid Assistance into a spenddown based on her income exceeding the MNIL. The Appellant testified during the administrative hearing that she has many medical conditions and is in need of medical transportation to her doctors' appointments. The Appellant also outlined her many living expenses that were not considered by the Department in the calculation of the spenddown. Regulations, however, do not allow for deductions of gross income based on medical need or household expenses.

When the Appellant's redetermination was processed for the Medicaid assistance her income was \$1487.00 per month. When her income increased effective [REDACTED] 2019 her spenddown amount also increased, however that calculation was not addressed in this decision as this was a separate departmental action which occurred after her hearing request

### **DECISION**

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



\_\_\_\_\_  
Marci Ostroski  
Hearing Officer

cc: Rachel Anderson, Cheryl Stuart, Lisa Wells, DSS Operations Managers,  
DO#20 New Haven  
Ferris Clare, Erika Beebe, DSS Liaisons, DO#20 New Haven

### **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.