

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

██████████ 2019  
Signature Confirmation

CLIENT No # ██████████  
Request # 1 ██████████

NOTICE OF DECISION

PARTY

██████████  
██████████  
██████████

PROCEDURAL BACKGROUND

On ██████████ 2018, the Department of Social Services - (“the Department”) sent ██████████ - (the “Appellant”) a Notice of Action (“NOA”) indicating his income is too high and therefore must meet a spend-down in the amount of \$491.54 before Medicaid can be activated.

On ██████████ 2019, the Appellant requested an administrative hearing to contest the Department’s determination.

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

On ██████████ 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.

The following individuals were present at the hearing:

██████████, Appellant  
██████████, Appellant  
██████████, Appellant’s daughter  
Eleana Toletti, Department’s Representative,  
Almelinda McLeod, Hearing Officer

The hearing record was held open for the submission of additional evidence. On [REDACTED], 2019, the hearing record closed.

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether the Department correctly determined the Appellant's Spenddown amount.

### **FINDINGS OF FACT**

1. The Appellant is married and resides with his spouse. (Hearing record)
2. The Appellant is on a medical spend-down under the Husky C Medically Needy Aged, Blind, Disabled ("MAABD") spend-down program. (Hearing summary)
3. Husky C Medicaid spend-downs are calculated and certified every six months. (Hearing Summary)
4. The Appellant's certification for spend-down period is from [REDACTED] 2018 to [REDACTED] 2019. (Hearing summary)
5. In [REDACTED] 2018, the Appellant's Social Security income was \$702.00 and his spouses' Social Security Income was \$741.00 per month. (Hearing summary, Exhibit 9, Bendex Inquiry Details)
6. Neither the Appellant nor his spouse has any other income. (Appellant testimony)
7. The Husky C Medically Needy Income Limit ("MNIL") is \$696.41 per month. (Hearing summary)
8. The Department disregarded \$678.00 (\$339.00 standard deduction for each) from the Appellant's and his spouses' Social Security Income. (Hearing summary, Exhibit 5, MAABD Income Test)
9. As of [REDACTED]r 2018, the Department determined the Appellant's spend-down balance was \$411.54. See break down below:  
  

$$[\$702.00 + \$741.00 = \$1443.00 - \$678.00 = \$765.00 - \$696.41 = \$68.59 \times 6 \text{ months} = \$411.54].$$
 (Hearing Summary)
10. On [REDACTED] 2018, the Department was notified that effective [REDACTED], 2019, the Appellant's Social Security income will be increased to \$722.00 and his spouses' Social Security increased to \$761.00 per month. (Hearing Summary, Exhibit 10, Bendex Inquiry Details)

11. On [REDACTED] 2018, the Department determined the Appellant's new spend-down balance will be \$491.54 effective [REDACTED] 2019. See breakdown below:

*From [REDACTED] 2018 to [REDACTED] 2018:*

$[\$702.00 + \$741.00 = \$1443.00 - \$678.00 = \$765.00 - \$696.41 = \$68.59 \times 4 \text{ months} = \$274.36]$ .

*From [REDACTED] 2019 to [REDACTED] 2019:*

$[\$722.00 + \$761.00 = \$1483.00 - 678.00 = \$805.00 - \$696.41 = \$108.59 \times 2 \text{ months} = \$217.18]$

$\$274.36 + \$217.18 = \$491.54$ . (Hearing summary, Exhibit 7, MAABD Income Test)

12. Sometime in [REDACTED] 2019, the Appellant submitted medical receipts to the Department to be used towards the spend-down, but receipts for over the counter ("OTC") medications, supplements and vitamins for the Appellant were not accepted. (Appellant testimony)
13. The Appellant has a history of congestive heart failure and has had a kidney transplant; as a result, the Appellant requires some OTC medications, supplements and vitamins for life. (Appellant testimony)
14. The Department did not accept the OTC medications, supplements and vitamins for the spend-down because there was no evidence that they were prescribed by a licensed practitioner. The Department issued a notice to the Appellant stating that more information was needed. (Department testimony)
15. The Appellant does not have private insurance. ( Appellant's testimony)
16. The Appellant has Husky D prescription plan with Silverscript but does not pay a premium. (Appellant testimony)
17. The Appellant receives Qualified Medicare Beneficiary assistance from the Department's Medicare Savings Program and does not pay Medicare Part B premiums. ( Department testimony)
18. The issuance of this decision is timely under Connecticut General Statutes Section 17b-61(a), 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], 2019. Therefore, this decision is due not later than [REDACTED] 2019.

## CONCLUSIONS OF LAW

1. Section 17b-2 and § 17b-260 of the Connecticut General Statutes, authorizes the Department of Social Services to administer 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 § 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.
4. UPM § 5515.05 (B) (1) (a) (b) provides in part that the needs group for an applicant or recipient under the AABD program includes the following: a. the applicant or recipient; and b. the spouse of the applicant or recipient: (1) when they share the same home regardless of whether one or both are applying for or receiving assistance; and (2) through the end of the month of separation, should one occur.
5. 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.
6. **The Department correctly determined the Appellant is in a needs group of two and an assistance unit of one.**
7. UPM § 5520.20 (B) (1) provides the following method to determine eligibility in the prospective month period is 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.
8. **The Department correctly determined the Appellant’s six month period of eligibility was from [REDACTED] 2018 to [REDACTED] 2019.**
9. Uniform Policy Manual (“UPM”) § 4530.15 (A) (1) (2) pertains to the Medical assistance standards and provides that a uniform set of income standards is established for all assistance units who do not qualify as categorically needy. The MNIL of an assistance unit varies according to: a. the size of the assistance unit; and b. the region of the state in which the assistance unit resides.

10. UPM § 4510.10 (B) (2) provides that [REDACTED] is in Region B.
11. **The Department correctly determined that the Appellant lives in Region B.**
12. UPM § 5050.13 (A) (1) provides that income from Social Security is treated as unearned income for all programs.
13. UPM § 5020.75 (A) (1) (a) provides the Department deems income from the spouse of an MAABD applicant or recipient if he or she is considered to be living with the assistance unit member.
14. **The Department correctly determined that the Appellant's spouses' Social Security income must be deemed to the Appellant.**
15. **The Department correctly determined that as of [REDACTED] 2018 to [REDACTED], 2018, the Appellant's total gross monthly unearned income was \$1443.00 per month. [\$702.00 + \$741.00].**
16. **The Department correctly determined that effective [REDACTED] 2019; the Appellant's total gross monthly unearned income is was \$1483.00 per month. [\$722.00 + \$761.00].**
17. 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 Aide to the Aged, Blind, and Disabled ("MAABD") programs.
18. 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.
19. UPM § 5030.15 (B) (1) (a) provides that the standard 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 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.
20. UPM § 5045.10 (E) provides that the assistance unit's total applied income is the sum of the units applied earnings, applied unearned income and the amount deemed.
21. The current unearned income standard disregard for 2018 and 2019 is \$339.00 for those who reside in their own homes in the community.

22. **The Department correctly determined that the Appellant and his spouse were eligible for \$339.00 each or a total of \$678.00.**
23. **The Department correctly determined the Appellant's applied income as of [REDACTED] 2018 to [REDACTED] 2018 as \$765.00. [\$1443.00 – 678.00 = \$765.00]**
24. **The Department correctly determined the Appellant's applied income of [REDACTED] 2019 to [REDACTED], 2019 as \$805.00. [\$1483.00-\$678.00 = \$805.00]**
25. UPM § 4530.15 (B) pertains to the standard of assistance and provides that the medically needy income limit (“MNIL”) is the amount equivalent to 143 percent of the benefit amount that ordinarily would be paid under the TFA program to an assistance unit of the same size with no income for the appropriate region of residence.
26. **The monthly Temporary Family assistance grant for two people in Region B is \$487.00.**
27. **The Department correctly determined that the MNIL for the Appellant's assistance for one person is \$696.41. (\$487.00 x 1.43 (143%) = \$696.41 )**
28. 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.
29. UPM § 5520.25 (B) provides that when the amount of the assistance unit's monthly income exceeds the MNIL, income eligibility for the medically needy assistance unit does not occur until the amount of excess income is offset by medical expenses. This process is referred to as a spend-down.
30. UPM 5520.20 (B) (5) (b) provides that 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.
31. **The Department correctly determined that the Appellant's applied income exceeds the MNIL as of [REDACTED] 2018 to [REDACTED] 2018 by \$68.59 per month for four months totaling \$274.36. [\$765.00 - \$696.41 = \$68.59 x 4 = \$274.36]**
32. **The Department correctly determined that the Appellant's applied income exceeds the MNIL as of [REDACTED] 2019 to [REDACTED] 2019**

by \$108.59 per month for two months totaling \$217.18. [ $\$805.00 - \$696.41 = \$108.59 \times 2 = \$217.18$ ]

33. The Department correctly determined that the Appellant's six month spend-down amount from [REDACTED] 2018 to [REDACTED] 2019 is \$491.54. [ $\$274.36 + 217.18$ ]
34. Section 17b-259b (1) of the Ct General Statutes provides (a) for purposes of the administration of the medical assistance programs by the Department of Social Services, "medically necessary " and "medical necessity" mean those health services required to prevent, identify, diagnose, treat, rehabilitate or ameliorate an individual's medical condition, including mental illness, or its effects, in order to attain or maintain the individual's achievable health and independent functioning provided such services are consistent with generally-accepted standards of medical practice that are defined as standards that are based on (A) credible scientific evidence published in peer-reviewed medical literature that is generally recognized by the relevant medical community, (B) recommendations of a physician-specialty society, (C) the views of physicians practicing in relevant clinical areas, and (D) any other relevant factors.
35. Regulations of Connecticut State Agencies §17b -262-717 (3) pertains to Medical and Surgical Supplies and provides that drugs and supplements , including, but not limited to, over the counter supplies such as cough medicine , herbal remedies and laxatives are not covered by Medicaid.
36. UPM § 5520.25 (B) provides for the use of medical expenses under a spend-down. 1. Medical expenses are used for a spend-down if they meet the following conditions:
- a. the expenses must be incurred by a person whose income is used to determine eligibility.
  - b. any portion of an expense used for a spend-down must not be payable through a 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.

37. UPM §5520.30 (B) provides the total amount of excess income for the entire six month prospective period is offset by:
- a. medical expenses occurring prior to the prospective period in accordance with guidelines set forth in 5520.25; and
  - b. paid or unpaid medical expenses occurring in the prospective period in chronological order.
38. UPM 5520.25 (B) (3) provides that the use of Medical expenses for spend-down process are used in the following order of categories and, within each category, chronologically starting with the oldest bills:
- a. first, Medicare and other health insurance premiums, deductibles, or co-insurance charges. Medical insurance premiums expenses which exist at the time of the processing of the application which are reasonably anticipated to exist for the six month prospective period and considered as a six month projected total;
  - b. then, expenses incurred for necessary medical and remedial services that are recognized under State Law as medical costs but not covered by Medicaid in Connecticut.
  - c. finally, expenses incurred for necessary medical and remedial services recognized under State Law as medical costs and covered by Medicaid in Connecticut.
39. **The Department correctly determined that Supplements and or vitamins are not covered by Medicaid.**
40. **The Department correctly requested more information regarding the medical necessity of the supplements and vitamins and correctly determined that a note from a medical provider was needed.**
41. UPM § 5520.30 (B) (2) provides when the excess income is offset by medical expenses before the expiration of the prospective period, the assistance unit is eligible for the remaining balance of the six months.
42. UPM § 5520.30 (B) (3) provides when the amount of incurred expenses is insufficient to offset the excess income, no eligibility exists for that six month period.
43. **The Department correctly determined the Appellant must meet the \$491.54 spend-down in order to become eligible for MAABD.**



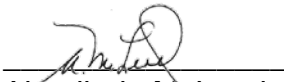
**DISCUSSION**

The Appellant re-submitted receipts provided to the Department prior to this hearing. For purposes of this hearing, only the receipts submitted prior to the Appellant's hearing request (██████████ 2019) was considered. Of the receipts submitted, supplements and vitamins were marked as "Can't use, need note" by the Department. Per regulations, medical necessity for the OTC medications, supplements and vitamins must be established; therefore a prescription from a licensed practitioner is required. The Department is upheld.

Subsequent receipts for medical expenses were submitted to the Department on this day of the hearing, the Department has agreed to evaluate the new receipts towards the spend-down.

**DECISION**

The Appellant's appeal is DENIED.



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Almelinda McLeod  
Hearing Officer

CC: Brian Sexton, SSOM Middletown Regional Office  
Eleana Toletti, Fair Hearing Liaison, Middletown 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 Legal Counsel, Regulations, and Administrative Hearings, 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 his 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.