

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

[REDACTED], 2019
Signature Confirmation

Case ID # [REDACTED]
Client ID # [REDACTED]
Request # [REDACTED]

NOTICE OF DECISION

PARTY

[REDACTED]

PROCEDURAL BACKGROUND

[REDACTED], 2018, the Department of Social Services (the "Department") sent [REDACTED] (the "Appellant") a notice indicating that his benefit from the Aid to the Aged, Blind, and Disabled ("AABD") program would be discontinued effective [REDACTED] due to net income in excess of the program limit.

[REDACTED] 2019, the Appellant requested an administrative hearing to contest the Department's action.

[REDACTED] 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for [REDACTED], 2019.

[REDACTED], 2019, in accordance with sections 17b-60, 17b-61, and 4-176e to 4-184, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing.

The following individuals were present at the hearing:

[REDACTED] Appellant
Jerrett Wyant, Department's Representative
Christopher Turner, Hearing Officer

STATEMENT OF THE ISSUE

The first issue to be decided is whether the Department's decision to discontinue the Appellant's AABD benefit was correct.

The second issue to be decided is whether the Department's calculation of the resulting spenddown was correct.

FINDINGS OF FACT

1. On [REDACTED] 2018, the Appellant received \$24.00 in AABD assistance. The Appellant's certification period is [REDACTED]18 through [REDACTED]19. (Exhibit 8A: State Supplement Income Test)
2. On [REDACTED] 2018, the Appellant's Social Security Disability Income ("SSDI") was updated from [REDACTED] effective [REDACTED] 2019. (Exhibit 10A: Unearned Income details; Hearing summary)
3. On [REDACTED] 2018, the Department issued a notice of action to the Appellant that indicated the Appellant's AABD assistance would close due to monthly net income in excess of the program limit with a resulting spenddown of \$[REDACTED]. (Exhibit 1A: Notice dated [REDACTED]/18; Hearing summary)
4. The Appellant's rent is \$[REDACTED] per month. (Record; Appellant's testimony)
5. The Appellant resides [REDACTED]. (Record; Appellant's testimony)

CONCLUSIONS OF LAW

1. Connecticut General Statutes Section (§) 17b-2 provides the Department of Social Services is designated as the state agency for the administration of (6) the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Regulations of Connecticut State Agencies § 17b-198-2 defines AABD as the state supplement to the aged, blind or disabled administered pursuant to section 17b-600 of the Connecticut General Statutes.

Connecticut General Statutes § 17b-600 provides the Commissioner of Social Services shall administer a program of optional state supplementation as provided for by Title XVI of the Social Security Act, as amended, and shall administer the program in accordance with the requirements provided therein. In accordance with the requirements of Title XVI of said Social Security Act, optional state supplementation may be provided to aged, blind and disabled individuals who receive supplemental security income benefits or who would be eligible to receive such benefits except for income, provided that any applicant or recipient of optional state supplementation shall be ineligible for such supplementary assistance if such

person has made, within twenty-four months prior to the date of application for such aid, an assignment or transfer or other disposition of property for less than fair market value, for the purpose of establishing eligibility for benefits or assistance under this section, provided ineligibility because of such disposition shall continue only for either (1) twenty-four months after the date of disposition, or (2) that period of time from date of disposition over which the fair market value of such property, less any consideration received in exchange for its disposition, together with all other income and resources, would furnish support on a reasonable standard of health and decency, whichever period is shorter, except that in any case where the uncompensated value of disposed of resources exceeds twelve thousand dollars, the Commissioner of Social Services shall provide for a period of ineligibility based on the uncompensated value which exceeds twenty-four months.

3. Uniform Policy Manual (“UPM”) § 4520.05(A) (1) provides that the basic need requirements of AABD assistance units vary according to the type of living arrangement in which the unit resides.

UPM § 4520.05 (A) (2) provides AABD assistance units are classified by living arrangement into the following categories: a. residents of rated housing facilities; b. residents of housing which is not rated; and c. residents of long term care facilities.

UPM § 4520.05 (A) (3) provides uniform standards are established for assistance units belonging to the same type of housing classification.

4. UPM § 4520.05 (B) (1) provides the basic needs of AABD assistance units consist of: a. a consolidated personal needs standard; and (b) a shelter standard for permanent housing.

UPM § 4520.05 (B) (2) provides the personal need standard is: a. uniform for all assistance units belonging to the same housing classification; and b. not reduced or prorated.

UPM § 4520.05 (B) (3) provides the shelter standard varies according to: a. the housing classification; and b. the actual cost of the housing; and c. rates or limits established by the Department.

UPM § 4520.05 (B) (4) provides the shelter standard contains basic needs which: a. are recognized by the Department; b. not incorporated into the personal needs standard.

UPM § 4520.05 (B) (5) provides the assistance unit's basic needs are equal to the sum of the personal and shelter need standards.

5. UPM § 4520.15 (A) (1) (b) provides that an individual residing in a rented living arrangement is classified as residing in non-rated housing.

The Department correctly determined that the Appellant's living situation, for purposes of the AABD program, is classified as non-rated housing.

6. UPM § 4520.15 (B) (1) establishes a personal needs standard for assistance units residing in non-rated housing which contains a cost allowance for the following expenses: clothing; cooking fuel; electricity; food; heat; hot water; household supplies; laundry; personal incidentals; telephone; transportation. The personal needs allowance for a single individual residing in non-rated housing is currently \$170.06 per month.

The Department correctly determined that the Appellant qualifies for a personal needs allowance of \$170.06 per month, because he is a single individual residing in non-rated housing.

7. UPM § 4520.15 (C) provides for two classifications of non-rated housing. 1. Level 1 Housing (a) An applicant or recipient is considered to be living in Level 1 Housing in the following situations: (1) he or she is living in commercial housing or in a Department of Mental Health (DMH) sanctioned supervised apartment and not sharing a bedroom with any other individual; (2) he or she is living in a shelter for the homeless or for battered women; (3) he or she is living in any type of housing not mentioned in (1) or (2) above, and is not sharing his or her bedroom, bathroom or kitchen with another individual. b. The standard of assistance for shelter for assistance units living in Level 1 Housing is the amount that the assistance unit is obligated to pay for housing, up to \$400 per month. This includes rent, mortgage principal and interest, fire insurance premiums, property taxes, and water bills. 2. Level 2 Housing. a. An applicant or recipient is considered to be living in Level 2 Housing in the following situations: (1) he or she is sharing a bedroom in any type of housing except a shelter for the homeless or a shelter for battered women; (2) he or she is sharing a bathroom or kitchen in any housing except a shelter for the homeless, a shelter for battered women, a DMH sanctioned supervised apartment, or commercial housing. b. The standard of assistance for shelter for assistance units living in Level 2 Housing is the amount that the assistance unit is obligated to pay for housing, up to \$200 per month. This includes rent, mortgage principal and interest, fire insurance premiums, property taxes, and water bills.

The Department correctly determined that the Appellant resides in Level 1 Housing, because he lives alone.

The Department correctly determined that the Appellant's shelter standard for an individual residing in Level 1 housing is the actual amount of rent paid, up to \$400.00.

The Department correctly determined that the Appellant's total basic need, for purposes of the AABD program, is \$570.06 (\$400 shelter standard + \$170.06 personal needs allowance).

8. UPM § 5050.13(A)(1) provides that Social Security Income is treated as unearned income in all programs.

UPM § 5030.15(B) (1) provides the Department uses the following unearned income disregards, as appropriate under the circumstances described: a. 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 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 correctly determined that the Appellant's total gross income is \$ [REDACTED] per month from [REDACTED].

Effective [REDACTED], 2019, the standard disregard is \$339.00.

The Department correctly determined that the Appellant's applied income, after subtracting the \$339.00 standard disregard from his [REDACTED] gross income, is [REDACTED].

9. UPM § 5520.10 provides that income eligibility for AABD is determined by subjecting a monthly income amount to both gross income and applied income tests.

UPM § 5520.10(B)(3) provides that if the amount of applied income equals or exceeds the amount of needs, there is no eligibility for the assistance unit member.

The Department correctly determined that, as of [REDACTED], 2019, the Appellant is not eligible for an AABD benefit as his net income of \$ [REDACTED].00 exceeds his total needs of \$570.06.

10. 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; and
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 [REDACTED] under the MAABD program.

11. UPM § 5515.05 (C) (2) provides in part that the needs group for a MAABD unit includes the following: (a) the applicant or recipient; and (b) the spouse of the applicant or recipient when they share the same home regardless of whether one or both applying for or receiving assistance, except in cases involving working individuals with disabilities.

The Department correctly determined that the Appellant is deemed a needs group of one.

12. 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]

The Department correctly determined that the Appellant [REDACTED].

13. 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 [REDACTED] 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).

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

The Department correctly determined that the Appellant's total gross monthly-unearned income is [REDACTED].

15. 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.

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, 2019, 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.

UPM § 5050.13 (A) (2) provides that Social Security income is subject to unearned income disregards in the AABD and MAABD programs.

The Department correctly calculated the Appellant's applied unearned income as \$ [REDACTED] (\$ [REDACTED] unearned income - \$339.00 standard disregard).

16. 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] 2019 through [REDACTED] 2019.

The Department correctly determined that the Appellant's applied income exceeded the MNIL by \$[REDACTED] per month (\$[REDACTED] – \$523.38).


The Department correctly determined that the Appellant's six month spenddown amount is \$[REDACTED] (\$[REDACTED] excess * 6 months).

DISCUSSION

The Department was correct to discontinue the Appellant's AABD grant due to income in excess of the program limit and place the Appellant's Medicaid Assistance into a spenddown based on his income exceeding the MNIL.

DECISION

The Appellant's appeal is denied.


Christopher Turner
Hearing Officer

Cc: Patricia Ostroski, Operations Manager New Britain
Jerrett Wyant, Fair Hearing Liaison, New Britain DSS

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, law, and 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 06105-3725.

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, if 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 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.