

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

[REDACTED], 2019
Signature Confirmation

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

NOTICE OF DECISION
PARTY

[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED], 2019, the Department of Social Services (the "Department") sent [REDACTED] (the "Appellant") a Notice of Action ("NOA") approving Medicaid benefits under the Medicaid Assistance for Aged, Blind, and Disabled Program ("MAABD") under a spend-down effective [REDACTED] 2019. The letter stated that the Appellant must meet a \$1089.72 spend-down before her Medicaid Husky C can be activated.

On [REDACTED] 2019, the Appellant's mother and Authorized Representative requested an administrative hearing to contest the Department's action.

On [REDACTED], 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for [REDACTED] 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's Mother
Adel Frost, Appellant's DDS Worker
Eleana Toletti, Department's Representative
Swati Sehgal, Hearing Officer

The hearing record was left open for submission of additional information by the Department with the Appellant's agreement. Hearing record was closed on [REDACTED] 2019.

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 spend-down amount before becoming eligible for Medicaid.

FINDINGS OF FACT

1. The Appellant's assistance unit consists of herself as one member. (Hearing Record and Appellant's Testimony)
2. The Appellant is [REDACTED] years old (D.O.B. [REDACTED]) and is disabled. (Appellant's testimony, Department's Summary)
3. The Appellant was receiving Medicaid under Husky C -Aged, Blind Disabled not Eligible for State Supplement Cash program. (Exhibit 2: Notice of Action; [REDACTED], Department's Summary)
4. The Appellant was receiving SSI in the amount of \$771.00 a month. (Appellant's Mother's Testimony, Exhibit 8: MAABD Income Test)
5. The Appellant was granted Social Security Disability ("SSD") benefits in the amount of \$1044.00 per month effective [REDACTED] 2019. However, the Department changed the Appellant's income for [REDACTED] 2019 to \$1044.00 based on computer match. (Appellant's Mother Testimony, Department's Representative's Testimony, Exhibit 11: Case Notes)
6. On [REDACTED], 2019, the Department sent the Appellant an NOA approving her Medicaid Husky C- Medically Needy Aged, Blind, Disabled - Spenddown program for the period [REDACTED] 2019, through [REDACTED], 2020. Notice further stated that the amount of her MAABD spend-down is \$1,089.72 for the period of [REDACTED]. (Exhibit 2: Notice of Action, [REDACTED])
7. The Appellant has not submitted any medical bills to apply to the spend-down for the current period. (Appellant's testimony)
8. The Medically Needy Income Limit ("MNIL") under the MAABD program is \$523.38. (Hearing Record)

9. 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], 2019. This decision, therefore, was due no later than [REDACTED], 2019. (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 a 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 counted the Appellant's income from Social Security Disability as unearned income.
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 1/1/19] 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 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 \$705.00 (\$1044.00 - \$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-month.
 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 \$181.62 per month ($\$705.00 - \$523.38 = \181.62).
 25. The Department correctly determined that the Appellant's prospective six-month spend-down is \$1089.72 ($\181.62×6).
 26. The Department incorrectly determined that six-month spend-down amount of \$1089.72 is for the period of [REDACTED] 2019, through [REDACTED], 2019.
 27. The Department incorrectly counted the Appellant's SSD income of \$1044.00 for the month of [REDACTED].
 28. 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 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 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 a 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.
29. 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.
30. The Department incorrectly determined that the Appellant's monthly income exceeds the MNIL for [REDACTED] 2019.
31. The Department correctly determined that the Appellant's monthly income exceeds the MNIL for [REDACTED] 2019 and correctly placed the Appellant under the Medicaid spend-down program.
32. The Department correctly determined that 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.
33. The Department correctly calculated the Appellant's spend-down amount of \$1089.72; however, the spend-down period of [REDACTED] 2019, through [REDACTED], 2019, is incorrect.
34. The Appellant is encouraged to submit her medical expenses to the Department to determine if her expenses can be applied to the spend-down amount.

DISCUSSION

The Department was correct to place the Appellant's Medicaid assistance into a spend-down status based on her income exceeding the MNIL. The Department also correctly calculated the spend-down amount to be \$1089.72. However the Department's decision to count the Appellant's SSD income for [REDACTED] 2019 was incorrect and subsequently the spend-down period begin date of [REDACTED] 2019, is incorrect as well. The Appellant's mother stated and provided verification during the administrative hearing that her daughter

will receive her SSD check as of [REDACTED] 2019. The Department agreed to reevaluate the spend-down period.

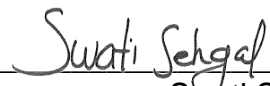
The Department provided a statement that it has reevaluated the Appellant's spend-down period and it could not make any changes to the Appellant's income to reflect start date of SSD as of [REDACTED] 2019 due to system functionality. The Department also provided evidence that it has activated the spend-down after the Appellant's mother submitted medical bills. The Department issued a notice of action informing the Appellant that her Husky C spend-down was approved as of [REDACTED] 2019.

DECISION

The Appellant's appeal concerning the spend-down amount is **DENIED**. The issue concerning the effective date of the spend-down period is remanded back to the Department.

ORDER

1. The Department is ordered to correct the system issue and change the effective date of the Spend-down period to [REDACTED] 2019.
2. Compliance with this order shall be submitted to the undersigned no later than [REDACTED], 2019.



Swati Sehgal
Hearing Officer

cc: Brian Sexton, Social Services Operations Manager, DO #50 Middletown
Eleana Toletti, DSS Liaison, DO #50 Middletown

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 Ave, 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.