

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

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

Client ID # ██████████
Request # 142981

NOTICE OF DECISION

PARTY

██████████
██████████
████████████████████

██████████ **BACKGROUND**

On ██████████ 2019, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") informing her the Department rejected the use of medical expenses toward her Husky C spenddown under the Medicaid program.

On ██████████ 2019, the Appellant requested an administrative hearing to contest the Department's decision to reject such expenses.

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, 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
██████████, Witness for the Appellant
Sara Hart, Department Representative
Lisa Nyren, Fair Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to reject medical expenses submitted by the Appellant to be applied to her Husky C spenddown was correct.

FINDINGS OF FACT

1. The Appellant is a recipient of medical assistance under the Husky C Spenddown program. (Hearing Record)
2. The Appellant's six-month spenddown period begins [REDACTED] 2019 and ends [REDACTED] 2019. (Exhibit 1: Spenddown Welcome Packet)
3. The Appellant's spenddown equals \$1,791.72. (Exhibit 1: Spenddown Welcome Packet)
4. The Appellant receives weekly methadone treatment from the [REDACTED] [REDACTED] [REDACTED] [REDACTED] (the "dispensary") in [REDACTED] and [REDACTED]. The dispensary charges the Appellant \$60.00 each week for treatment which the Appellant must pay to continue ongoing treatment with the dispensary. (Hearing Record)
5. On [REDACTED] 2019, the Department received a payment history statement from the Appellant for treatment at the dispensary for the period [REDACTED] [REDACTED] 2019 through [REDACTED] 2019 totaling \$960.00. The Appellant made payments totaling \$948.00 leaving an unpaid balance of \$32.00 as of [REDACTED] [REDACTED], 2019. (Exhibit 8: Case Notes and Exhibit 12: Payment History [REDACTED])
6. On [REDACTED] [REDACTED] 2019, Conduent rejected medical expenses from the dispensary totaling \$960.00 for the period [REDACTED] 2019 through [REDACTED] [REDACTED], 2019 for the reason the dates of service could not be determined. (Exhibit 12: Payment History [REDACTED] and Exhibit 8: Case Notes)
7. Conduent is the Department's contractor responsible for determining qualifying medical expenses under the Husky C spenddown program. (Hearing Record)
8. On [REDACTED] 2019, the Department issued a notice of unusable spend-down expenses to the Appellant. The notice informed the Appellant that the Department rejected medical expenses totaling \$960.00 from the dispensary because more information is needed, specifically proof of the date(s) of service. (Exhibit 2: Notice)

9. On [REDACTED], 2019, the Department received a payment history statement from the Appellant for treatment at the dispensary for the period [REDACTED] 2018 through [REDACTED] 2019 totaling \$1,380.00. Total charges at the dispensary for the period [REDACTED] 2018 through [REDACTED], 2019 equal \$600.00. Total charges at the dispensary for the period [REDACTED] 2019 through [REDACTED] 2019 total \$780.00. The Appellant made payments totaling \$1,260.00 leaving an unpaid balance of \$140.00. (Exhibit 8: Case Notes and Exhibit 9: Payment History [REDACTED])
10. On [REDACTED] 2019, the Department applied \$1,260.00 medical expense from the dispensary for the period [REDACTED] 2018 to [REDACTED] 2019 to the Appellant's Husky C spenddown. (Exhibit 9: Payment History [REDACTED] Exhibit 8: Case Notes, and Department Representative's Testimony)
11. On [REDACTED] 2019, the Department received a payment history statement from the Appellant for treatment at the dispensary for the period [REDACTED] 2018 through [REDACTED] 2018 totaling \$440.00. The Appellant made payments totaling \$440.00 as of [REDACTED] 2018. (Exhibit 11: Payment Statement [REDACTED])
12. On [REDACTED] 2019, the Department received the following receipts for treatment at the dispensary:
- Payment Date: [REDACTED] 2019, Amount Paid \$100.00
- Payment date: [REDACTED] 2019, Amount Paid \$120.00
Scheduled billing [REDACTED] 2019 through [REDACTED] 2019 totaling \$300.00
Total payments [REDACTED] 2019 through [REDACTED], 2019: \$360.00
- Payment date: [REDACTED] 2019, Amount Paid \$69.00
Scheduled billing [REDACTED] 2019 through [REDACTED] 2019 totaling \$240.00
Total payments [REDACTED] 2019 through [REDACTED] 2019: \$357.00
- (Exhibit 10: Medical Receipts)
13. On [REDACTED] [REDACTED] 2019, Conduent rejected medical expenses from the dispensary totaling \$440.00 for the period [REDACTED] 2018 through [REDACTED] 2018 for the reason the dates of service could not be determined. (Exhibit 11: Payment History [REDACTED] and Exhibit 8: Case Notes)
14. On [REDACTED] [REDACTED] 2019, Conduent rejected medical expenses from the dispensary totaling \$420.00 for the period [REDACTED] 2019 through [REDACTED] 2019 for the reason the dates of service could not be determined. (Exhibit 10: Medical Receipts and Exhibit 8: Case Notes)

15. On [REDACTED] 2019, the Department issued a notice of unusable spend-down expenses to the Appellant. The notice informed the Appellant that the Department rejected medical expenses from the dispensary totaling \$440.00 and totaling \$420.00 because more information is needed, specifically proof of the date(s) of service. (Exhibit 3: Notice)
16. The issuance of this decision is timely under Connecticut General Statutes § 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. However, the close of the hearing record, which had been anticipated to close on [REDACTED] 2019, did not close for the admission of evidence until [REDACTED] 2019 at the Appellant's request. Because this 11 day delay in the close of the hearing record arose from the Appellant's request, this final decision was not due until [REDACTED] 2019, and is therefore timely.

CONCLUSIONS OF LAW

1. Section 17b-2(6) of the Connecticut General Statutes ("Conn. Gen. Stats.") 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. The department's uniform policy manual is the equivalent of a state regulation and, as such, carries the force of law." *Bucchere v. Rowe*, 43 Conn. Supp. 175, 178 (1994) (citing Conn. Gen. Stat, § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A.2d 712(1990))
3. Section 5520.25(B) of the Uniform Policy Manual ("UPM") provides 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 spenddown.
 1. 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.
2. The unpaid principal balance which occurs or exists during the spend-down period for loans used to pay for medical expenses incurred before or during the spend-down period, is used provided that:
 - a. The loan proceeds were actually paid to the provider; and
 - b. The provider charges that were paid with the loan proceeds have not been applied against the spend-down liability; and
 - c. The unpaid principal balance was not previously applied against spend-down liability, resulting in eligibility being achieved.
3. Medical expenses 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 coinsurance charges. Medical insurance premium expenses which exist at the time of the processing of the application which are reasonably anticipated to exist for the six month prospective period are 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.
4. When unpaid loan principal balances are used, they are categorized by the type of expense they were used to pay, as in B.3.
5. Expenses used to determine eligibility in a retroactive period are used in the following order:
 - a. Unpaid expenses incurred any time prior to the three-month retroactive period; then
 - b. paid or unpaid expenses incurred within the three-month retroactive period but not later than the end of the retroactive month being considered; then
 - c. an unpaid principal balance of a loan which exists during the retroactive period.
6. Expenses used to determine eligibility in the prospective period are used in the categorical and chronological order described previously.
7. Income eligibility for the assistance unit exists as of the day when excess income is totally offset by medical expenses:
 - a. Any portion of medical expense used to offset the excess income are the responsibility of the unit to pay.
 - b. Medical expenses which are recognized as payable under the State's plan and which are remained unpaid at the time eligibility

begins are paid by the Department provided the expenses were not used to offset income.

4. On [REDACTED] 2019, Conduent incorrectly rejected the medical charges from the dispensary totaling \$960.00 for the period [REDACTED] 2019 through [REDACTED] 2019 for the reason the bills submitted do not show the date of service. The payment history statement submitted by the Appellant lists the dates of service, amounts billed, payment dates, and payment amounts. However, some of the charges are a duplication of medical expenses previously submitted by the Appellant on [REDACTED] 2019 and [REDACTED] 2019 which the Department applied toward the current spenddown on [REDACTED] 2019 and therefore the Department cannot reapply the duplicate medical expenses against the current spenddown.
5. On [REDACTED] 2019, Conduent correctly rejected the medical expenses totaling \$440.00 for the period [REDACTED] 2018 through [REDACTED] 2018. Conduent incorrectly determined the reason for the rejection as more information is needed. The correct reason for the rejection is the medical receipts are for dates of service prior to the [REDACTED] 2019 spenddown period without current liability. The medical expenses for the period [REDACTED] 2018 through [REDACTED] 2018 are not qualifying medical expenses under the current spenddown period.
6. The Department incorrectly rejected the medical receipts submitted by the Appellant totaling \$420.00 for the period [REDACTED] 2019 through [REDACTED] 2019 for the reason the bills submitted do not show the dates of service. The medical receipts list the payment history and charges at the dispensary. However some of the charges are a duplication of medical expenses previously submitted by the Appellant on [REDACTED] 2019 and [REDACTED], 2019 which the Department applied toward the current spenddown on [REDACTED] 2019 and therefore the Department cannot reapply the duplicate medical expenses against the current spenddown.

DECISION

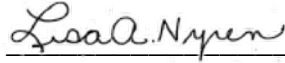
The Appellant's appeal is in part granted and in part denied.

ORDER

1. The Department must accept and examine the payment history statements and medical receipts submitted by the Appellant on [REDACTED], 2019, [REDACTED] 2019, and [REDACTED] 2019 to determine qualifying expenses

for the spenddown period [REDACTED] 2019 through [REDACTED], 2019 which were not previously applied by the Department on [REDACTED] 2019.

2. Compliance for this decision is due 10 days from the date of this hearing.



Lisa A. Nyren
Fair Hearing Officer

CC: Tonya Cook-Beckford, DSS RO 42
Sara Hart, DSS RO 42

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.