

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 # ██████████

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2019, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") informing him the Department rejected the use of medical expenses toward his 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
██████████, Appellant's caretaker
Ferris Clare, Department Representative
Scott Zuckerman, 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 his 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: Notice of Action dated [REDACTED] 2019)
3. The Appellant's spenddown equals \$5,019.72. (Hearing Summary and Exhibit 5: Notice of Unusable Spend-down Expenses dated [REDACTED] 2019)
4. On [REDACTED] 2019, the Department received a benefits statement from the Appellant from treatment received at [REDACTED] from [REDACTED] 2019, through [REDACTED] 2019. The statement reflects Medicare paid the entire bill of \$14,775.42. (Exhibit 2: Medicare Hospital Insurance claims [REDACTED]/19 through [REDACTED]/19)
5. On [REDACTED] 2019, the Department sent the Appellant a Notice of Unusable Spenddown Expenses. The notice informed the Appellant that the Department rejected Medical expenses totaling \$0.00 because the statement was not a bill but an explanation of benefits paid by Medicare. The notice informed the Appellant that when he receives a bill from [REDACTED] to send it to the Department. (Exhibit 5: Notice of Unusable Spend-down Expenses, [REDACTED]/19)
6. 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. Therefore, this decision is not later than [REDACTED], 2019.

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.

The Department correctly rejected medical expenses totaling \$14,775.42 incurred from [REDACTED] 2019, through [REDACTED] 2019, to be used for the spenddown. The claim was paid by Medicare. There was not a bill from [REDACTED] indicating the Appellant is liable for any of the charges.

DECISION

The Appellant's appeal is denied.


 Scott Zuckerman
 Fair Hearing Officer

CC: Rachel Anderson, Operations Manager, DSS, New Haven Office
 Cheryl Stuart, Operations Manager, DSS, New Haven Office
 Lisa Wells, Operations Manager, DSS, New Haven Office
 Ferris Clare, Fair Hearing Liaison, DSS, New Haven 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 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.