

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

█  
Signature Confirmation

Client Id. # █  
Hearing Id. #150809

NOTICE OF DECISION

PARTY

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█  
█

PROCEDURAL BACKGROUND

On █, 2019, the Department of Social Services (the "Department") sent █ (the "Appellant") a Notice of Action ("NOA") stating that he must meet a spenddown in the amount of \$4,893.72 before his HUSKY C Medicaid benefits for the Aged, Blind or Disabled can be activated.

On █ 2019, the Appellant requested an administrative hearing to contest the Department's determination that he must meet a spenddown before his Medicaid could be activated.

On █ █ 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for █ 2020.

On █, 2020, 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:

█, the Appellant,  
Joseph Alexander, Hearing Liaison, DSS, Bridgeport  
Mary Young, CCT, DSS, Bridgeport, Observer  
Maureen Foley-Roy, Hearing Officer

### **STATEMENTS 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 spenddown amount before being eligible for Medicaid.

### **FINDINGS OF FACT**

1. The Appellant is [REDACTED] years old and was residing out of the country for the past thirteen years. In 2019, he returned to the United States to seek treatment for medical issues and filed for his Social Security and Medicare benefit. The Appellant receives his Social Security benefit but has told he does not qualify for Medicare until [REDACTED] of 2020. (Appellant's testimony)
2. The Appellant is requesting medical assistance for himself. (Hearing Record, Appellant's testimony)
3. In 2019, the Appellant was receiving a monthly benefit of \$1668 from Social Security. (Exhibit 12a: Unearned Income Details [REDACTED])
4. In [REDACTED] of 2020, the Appellant's Social Security benefit increased to \$1695 per month. (Exhibit 12b: Unearned Income Details [REDACTED])
5. The Appellant has no income other than his Social Security benefit. (Appellant's testimony)
6. The Appellant has medical expenses slightly exceeding \$1600 that he incurred in [REDACTED] and [REDACTED] of 2019. He has not provided them to the Department to be applied to the spenddown. (Appellant's testimony)
7. On [REDACTED], 2019 the Department issued a notice of action advising the Appellant that his income was too high to receive medical coverage. The notice advised that the spenddown amount was \$4,893.72 for the spenddown period from [REDACTED] of 2019 through [REDACTED], 2020. (Exhibit 4: Notice of Action dated [REDACTED] [REDACTED])
8. 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 was due not later [REDACTED] 2020. However, after the close of the hearing on [REDACTED] [REDACTED] 2020 the hearing officer discovered discrepancies in the Department's testimony and evidence. The hearing officer held the hearing

record open for the submission of the Department's statement and evidence regarding the discrepancies and the Appellant's response. The hearing record closed on [REDACTED], 2020. Because of this 7 day delay in the close of the hearing record, the final decision is not due until [REDACTED] 2020, and is therefore timely.

### **CONCLUSIONS OF LAW**

1. Section 17b-2 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the Medicaid program.
2. The Department's Uniform Policy Manual ("UPM") is the equivalent of a state regulation and, as such, carries the force of law." *Bucchere v Rowe*, 43 Conn Supp. 175 178 (194) (citing Conn. Gen. Stat. § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A.2d712(1990)).
3. UPM § 4530.15(A) pertains to the medical assistance standards. It 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 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.
4. 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.
5. UPM § 4510.10(B) provides that Bridgeport is part of Region B.
6. The Department correctly determined that the Appellant lives in Region B.
7. The Department correctly determined that the MNIL for the Appellant's assistance unit for one person was \$523.38.
8. UPM § 5050.13(A) (1) provides that income from Social Security is treated as unearned income for all programs.
9. UPM § 5050.09 A provides that payments received by the assistance unit from annuity plans, pensions and trusts are considered unearned income.
10. The Appellant's total unearned income for the months of [REDACTED] and [REDACTED] of 2019 was \$1668 per month.

11. The Appellant's total unearned income beginning in [REDACTED] of 2020 and going forward was \$1695 per month.
12. 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 Aid to the Aged, Blind, and Disabled ("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( B)(1)(a) provides that the disregard was \$339 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<sup>st</sup> thereafter, this disregard shall be increased to reflect the annual cost of living adjustment used by the Social Security Administration. Effective January of 2018, the disregard was increased to \$339 for those individuals who reside in their own homes in the community. Effective January of 2020, the disregard was \$351 per month.
15. The Department correctly applied the standard unearned income disregard of \$339 per month to the Appellant's income for the months of [REDACTED] and [REDACTED] of 2019.
16. The Department correctly determined that the Appellant's applied income was \$1329 for the months of [REDACTED] and [REDACTED] 2019. (\$1668 - \$339)
17. The Department correctly determined that the Appellant's applied income exceeded the MNIL by \$805.62 for the months of [REDACTED] and [REDACTED] of 2019. (\$1329- \$523.38).
18. The Department correctly determined that the Appellant's applied income was \$1344 beginning in [REDACTED] of 2020. (\$1695 - \$351)
19. The Department correctly determined that the Appellant's applied income exceeded the MNIL by \$820.62 beginning in the month of [REDACTED]. (\$1344 - \$523.38)

**The Department correctly determined the Appellant's income exceeds the MNIL and that he must meet a spenddown before becoming eligible for Medicaid.**

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) 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.

**The Department was correct when it determined that the Appellant's six month spenddown was \$4893.72 [ $\$805.62 \times 2$  ( [REDACTED] 2019) +  $\$820.62 \times 4$  ( [REDACTED] through [REDACTED] 2020)] for the period from [REDACTED] 2019 through [REDACTED], 2020.**

### DECISION

The Appellant's appeal is **DENIED**.



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Maureen Foley-Roy  
Hearing Officer

PC: Yecenia Acosta, Tim Latifi, Fred Presnick, Operations Managers, DSS, Bridgeport  
Joseph Alexander, Fair Hearing Liaison, DSS, Bridgeport

### **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 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.