

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

██████████ 2020
Signature Confirmation

Client Id. # ██████████
Hearing Id. #151150

NOTICE OF DECISION

PARTY

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██████████
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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 she must meet a spenddown in the amount of \$3, 261.72 for the period from ██████████ 2020 through ██████████ 2020 before her HUSKY C Medicaid benefits can be activated.

On ██████████ 2020, the Appellant requested an administrative hearing to contest the Department’s determination that she must meet a spenddown before her 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, the Appellant contacted OLCRAH to request a continuance of her hearing to a telephone hearing. OLCRAH granted her request.

On ██████████, 2020, OLCRAH issued a notice rescheduling the administrative hearing for ██████████ 2020.

On [REDACTED] 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:

[REDACTED], the Appellant, via telephone conference
Debra James, Hearing Liaison, DSS, New Haven
Maureen Foley-Roy, Hearing Officer

This decision pertains solely to the issue of the HUSKY C medical benefits spenddown. The decision regarding SNAP benefits has been issued separately.

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. For the period from [REDACTED] 2019 through [REDACTED] 2019, the Appellant was on HUSKY C Medicaid with a spenddown of \$3,200.42. (Exhibit D: Notice of Action dated [REDACTED] 2019)
2. On [REDACTED] 2019, the Department issued a notice to the Appellant that her spenddown was \$1065.94 for the period from [REDACTED] 2019 through [REDACTED] 2019. (Exhibit B: Notice of Action dated [REDACTED] 2019)
3. The Appellant is active on Medicare and the Medicare Savings Program, wherein the Department pays for her Medicare premiums, co-pays and deductibles. (Exhibits B, D and I: Notices of Action and Department representative's testimony)
4. On [REDACTED] 2019, the Department issued a notice to the Appellant advising that her income was too high for HUSKY medical assistance and that she must meet a spenddown amount of \$3,261.72 for the period from [REDACTED] 2020 through [REDACTED] 2020. (Exhibit I: Notice of Action dated [REDACTED] 2020)
5. In [REDACTED] of 2020, the Appellant's Social Security benefit increased to \$1418 per month. (Exhibit 13b: MAABD Income Test [REDACTED])
6. The Appellant has no income other than her Social Security benefit. (Appellant's testimony)

7. The Appellant has been diagnosed with various medical conditions. She takes four medications on a regular basis. Her medications have co-pays that she must pay of \$1.11 and .79. She has never paid more than \$35 in one month in out of pocket medical expenses. (Appellant's testimony)
8. The Appellant pays for transportation to her medical appointments. The tickets generally cost \$28 per ride. She sends the receipts to the Department to be applied to her spenddown. (Appellant's testimony)
9. The Appellant also sends statements from [REDACTED] from her medical appointments to the Department. (Appellant's testimony)
10. The Department does not use receipts for medical expenses which were paid in a previous spenddown period or medical statements which do not indicate that the Appellant has a liability towards the spenddown. (Exhibit J: Notice of Unusable Spenddown Expenses and Department representative's testimony)
11. 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] 2020. Therefore, this decision was due not later [REDACTED] 2020. However, the hearing record, which had been anticipated to close on the originally scheduled hearing date, [REDACTED] 2020, did not close until [REDACTED] 2020 to allow for the continuance of the hearing requested by the Appellant. Because of this 6 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 New Haven 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 beginning in [REDACTED] of 2020 and going forward was \$1418 per month.
11. 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.
12. 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.
13. 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 1st 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.
14. The Department correctly applied the standard unearned income disregard of \$351 per month to the Appellant's income.

15. The Department correctly determined that the Appellant's applied income was \$1067 per month. (\$1418 - \$351)

16. The Department correctly determined that the Appellant's applied income of \$1067 per month exceeded the MNIL of \$523.38 by \$543.62.

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


17. 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.

18. 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 \$3,261.72 [\$543.62 X 6] for the period from [REDACTED], 2020 through [REDACTED], 2020.

DECISION

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



Maureen Foley-Roy
Hearing Officer

PC: Rachel Anderson, Cheryl Stuart, Lisa Wells, Operations Managers, DSS,
New Haven
Debra James, 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.