

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

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

Client ID # ██████████
Case # ██████████
Request # 152525

NOTICE OF DECISION

PARTY

██████████
██████████
██████████
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PROCEDURAL BACKGROUND

On ██████████ 2020, the Department of Social Services (the “Department”) sent ██████████ (the “Appellant”) a Notice of Action (“NOA) transferring his Medicaid benefits under the Medically Needy for Aged, Blind, and Disabled Program (“MAABD”) to a spenddown effective ██████████, 2020.

On ██████████ 2020, the Appellant requested an administrative hearing to contest the Department’s action to transfer his Medicaid benefits under the MAABD to a spenddown.

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, 17-61 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 Spouse
Garfield White, Department’s Representative
Lisa Nyren, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Appellant must meet a spenddown to become eligible for MAABD coverage.

FINDINGS OF FACT

1. The Appellant is married to [REDACTED] (the "Spouse")
2. The Appellant is age [REDACTED] born on [REDACTED] and disabled. (Spouse's Testimony and Exhibit 1: Notice of Renewal of Eligibility)
3. The Spouse is age [REDACTED] born on [REDACTED]. (Spouse's Testimony and Exhibit 1: Notice of Renewal of Eligibility)
4. The Appellant resides in [REDACTED] Connecticut. (Hearing Record)
5. On [REDACTED] 2020, the Department received the Appellant's redetermination document. (Exhibit 1: Notice of Renewal of Eligibility and Exhibit 8: Notice of Action)
6. Beginning [REDACTED] 2020, the Appellant receives Medicaid under the MAABD spenddown program. (Hearing Record)
7. The Appellant receives gross Social Security Disability ("SSDI") benefits of \$1,025.00 per month. (Stipulated)
8. The Spouse works part time for [REDACTED] (the "employer") working 21 hours per week earning \$12.50 per hour. The Spouse earned the following bi-weekly pays: [REDACTED] 2020 \$503.00 and [REDACTED] 2020 \$537.50. (Exhibit 5: Case Notes, Exhibit 6: MAABD – Income Test, and Spouse's Testimony)
9. The Appellant receives Medicare Part A and Medicare Part B benefits from the Social Security Administration. (Spouse's Testimony)
10. The Appellant receives Medicaid under the Medicare Savings Plan Qualified Medicare Beneficiaries that pays the Appellant's Medicare Part B premiums monthly. (Exhibit 8: Notice of Action)
11. The medically needy income limit ("MNIL") under the MAABD program is \$696.41 for a household of two. (Exhibit 6: MAABD – Income Test and Department Representative's Testimony)

12. On [REDACTED] 2020, the Department determined the Appellant eligible for MAABD under a spenddown totaling \$6,170.22 for the period [REDACTED] 2020 through [REDACTED] 2020 because the household's net monthly income of \$1,724.78 exceeds the Husky C income limit of \$696.41 by \$1,028.37 per month. ($\$1,028.37 \text{ excess income} \times 6 \text{ months spenddown period} = \$6,170.22 \text{ spenddown amount}$) (Exhibit 7: MA – Spend-down, Exhibit 8: Notice of Action, Exhibit 3: Spend Down Notice, and Department Representative's Testimony)
13. On [REDACTED] 2020, the Department notified the Appellant that the household's income is too high for medical coverage because the household's income exceeds the Husky income limit. He would need to submit medical bills totaling \$6,170.22 to meet a spenddown in order to become eligible for MAABD coverage for the six-month spenddown period [REDACTED] 2020 through [REDACTED] 2020. (Exhibit 8: Notice of Action)
14. At the administrative hearing, the Spouse reported the Appellant has outstanding medical debt which include the Freestyle Libre glucose testing monitor and supplies, out of pocket prescription co-pays, and methadone maintenance costs of \$120.00 bi-weekly. The Appellant has not submitted proof of medical debt to the Department. (Spouse's Testimony)
15. The Appellant seeks medical coverage to pay for increasing out of pocket medical costs not covered by Medicare. (Spouse's Testimony)
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] 2020. Therefore, this decision is due not later than [REDACTED] 2020.

CONCLUSIONS OF LAW

1. Section 17b-2(6) 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. "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 2530.05(A) of the Uniform Policy Manual (“UPM”) provides as follows:

To qualify for the State Supplement or related Medical Assistance programs on the basis of disability, the individual must be disabled as determined by SSA or the Department. The individual must be found to have an impairment which:

1. Is medically determinable; and
 2. Is severe in nature; and
 3. Can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve (12) months; and
 4. Except as provided in paragraph C below, prevents the performance of previous work or any other substantial gainful activity which exists in the national economy.
4. “An individual who is considered disabled by SSA is considered disabled by the Department.” UPM § 2530.10(A)(1)
 5. The Department correctly determined the Appellant disabled under the MAABD program because the Appellant receives disability benefits from the Social Security Administration.
 6. Department policy provides as follows:

The MAABD coverage group to include individuals who:

1. Meet the MAABD categorical eligibility requirements of age, blindness or disability; and
2. Are not eligible as categorically needy; and
3. Meet the medically needy income and asset criteria.

UPM § 2540.96(A)

7. Department policy provides as follows:

The Department uses the MAABD medically needy income and asset criteria to determine eligibility under this coverage group, including:

1. Medically needy deeming rules;
2. The Medically Needy Income Limit (“MNIL”);
3. The income spend-down process;
4. The medically needy asset limits.

UPM § 2540.96(C)

8. "A uniform set of income standards is established for all assistance units who do not qualify as categorically needy." UPM § 4530.15(A)(1)

Department policy provides as follows:

The MNIL of an assistance unit varies according to:

- a. the size of the assistance unit; and
- b. the region of the state in which the assistance unit resides.

UPM § 4530.15(A)(2)

9. "The assistance unit in AABD and MAABD consists of only one member. In these programs, each individual is a separate assistance unit." UPM § 2015.05(A)
10. The Department correctly determined an assistance unit of one, the Appellant.
11. "This chapter describes how the level of need is determined for each program. To this end, it presents material on how the needs of non-members of the assistance unit are regarded and who these persons are in each program." UPM § 5515

Department policy provides as follows:

The needs group for an MAABD unit includes the following:

- a. The applicant or recipient; and
- b. The spouse of the applicant or recipient when they share the same home regardless of whether one or both are applying for or receiving assistance, except in cases involving working individuals with disabilities. In these cases, the spouse (and children) are part of the needs group only in determining the cost of the individual's premium for medical coverage (Cross Reference: 2540.85)

UPM § 5515.05(C)(2)

"A spouse who is considered to be living with an assistance unit member is a member of the needs group when determining the assistance unit's eligibility." UPM § 5020.75(A)(3)

12. The Department correctly determined a needs group of two.
13. "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.” UPM § 4530.15(B)

“If the coverage group requires a medically needy income test, to determine the amount of the MNIL compare needs group size and region to the charges below to determine appropriate income limit.” UPM § P-4530.15(d)

14. The Department correctly determined that the MNIL as \$696.41.
15. In consideration of income, the Department counts the assistance unit's available income except to the extent that it is specifically excluded. Income is considered available if it is:
 1. Received directly by the assistance unit; or
 2. Received by someone else on behalf of the assistance unit and the unit fails to prove that it is inaccessible; or
 3. Deemed by the Department to benefit the assistance unit.

UPM § 5005(A)

16. “Income from Social Security is treated as unearned income in all programs.” UPM § 5050.13(A)(1)
17. The Department correctly included the Appellant's SSDI benefits when determining the assistance unit's gross income.
18. “If income is received on a monthly basis, a representative monthly amount is used as the estimate of income.” UPM § 5025.05(B)(1)
19. The Department correctly determined the Appellant's SSDI benefit as \$1,025.00 per month.
20. “In addition to income which is actually received by the assistance unit, the Department also considers some income which is received by persons who are not part of the unit. This chapter describes who these persons are and the methods used to calculate the amounts deemed.” UPM § 5020
21. “In calculating the amount of deemed income, the income of the deemor is counted in full, except for those reductions specifically described in this chapter.” UPM § 5020.05
22. Department policy provides as follows:

The Department deems income from: the spouse of an MAABD applicant or recipient if he or she is considered to be living with the assistance unit member, except in cases involving working individuals with disabilities. In these cases, spousal income is deemed only in determining the cost of the individual's premium for medical coverage (Cross Reference: 2540.85).

UPM § 5020.75(A)(1)(a)

23. The Department correctly included the spouse's wages when determining the assistance unit's gross income.
24. "Deemed income is calculated from parents and from spouses in the same way as in AABD for members of the following coverage groups: Medically needy Aged, Blind, and Disabled." UPM § 5020.75(C)(4)

Department policy provides as follows:

When the spouse has not applied for AABD or has applied and has been determined to be ineligible for benefits, the amount deemed to the unit from the unit member's spouse is calculated in the following manner:

- a. The deemor's self-employment earning are reduced by self-employment expenses, if applicable;
- b. The deemor's gross earnings are reduced by deducting the following personal employment expenses, as appropriate:
 1. Mandatory union dues and cost of tools, materials, uniforms or other protective clothing when necessary for the job and not provided by the employer;
 2. Proper federal income tax based upon the maximum number of deductions to which the deemor is entitled;
 3. FICA, group life insurance, health insurance premiums, or mandatory retirement plans;
 4. Lunch allowance at .50 cents per working day;
 5. Transportation allowance to travel to work at the cost per work day as charged by private conveyance or at .12 cents per mile by private car or in a car pool. Mileage necessary to take children to or to pick them up from a child care provider may also be included;
- c. The total applied earned income of the deemor is added to his or her total monthly gross unearned income;
- d. The combined total of the deemor's gross unearned income and applied earned income after the appropriate deductions are made is deemed available to the assistance unit member.

UPM § 5020.70(C)(3)

“The total amount of deemed income calculated is used without further reductions.” UPM § 5045.10(D)

25. Based on the hearing record, the amount of the spouse’s earned income to be deemed to the assistance unit cannot be determined because the spouse’s personal employment expenses, if any, are not known.
26. “Social Security income is subject to an unearned income disregard in the AABD and MAABD programs.” UPM § 5050.13(A)(2)

“The Department computes applied income by subtracting certain disregards and deductions, as described in this section, from counted income.” UPM § 5005(C)

“Except as provided in section 5030.15(D), unearned income disregards are subtracted from the unit member’s total gross monthly unearned income.” UPM § 5030.15(A)

27. “All of the disregards used in the AABD programs are used to determine eligibility for MAABD.” UPM § 5030.15(C)(2)(a)
28. Department policy provides as follows:

The Department uses the following unearned income disregards, as appropriate under the circumstances described: The disregard is [\$351.00] 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.

UPM § 5030.15(B)(1)(a)

Department policy provides as follows:

The Department uses the following unearned income disregards, as appropriate under the circumstances described: The disregard is [\$418.90] for those individuals who share non-rated housing with at least one person who is not related to them as parent, spouse or child. This does not apply to individuals who reside in shelters for battered women or shelters for the homeless. 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.

UPM § 5030.15(B)(1)(c)

29. "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." UPM § 5045.10(C)(1)
30. The Department incorrectly calculated the Appellant's applied unearned income as \$606.10 using the incorrect unearned income disregard. The correct applied unearned income is \$674.00. (\$1,025.00 SSA - \$351.00 unearned income disregard = \$674.00)
31. "The assistance unit's total applied income is the sum of the unit's applied earnings, applied unearned income, and the amount deemed." UPM § 5045.10(E)
32. Based on the hearing record, the Appellant's total applied income cannot be determined because the amount of deemed income cannot be determined.
33. "The month following the redetermination month is the first month of the new redetermination period for an active case." UPM § 1545.10(A)(2)(b)
- "Medically needy spend-down cases must be redetermined at least as often as every six months." UPM § 1545.10(D)(1)(a)
- "The six month redetermination cycle corresponds to the six month excess income spenddown period." UPM § 1545.10(D)(1)(b)
34. "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: when the unit's total applied income, is greater than the total MNIL's the assistance unit is ineligible until the excess income is offset through the spend-down process." UPM § 5520.20(B)(5)(a)
35. "When the assistance unit's applied income exceeds the CNIL, the assistance unit is ineligible to receive Medicaid as a categorically needy case." UPM § 5520.25(A)
- "Those assistance units which are determined ineligible as categorically needy cases have their eligibility determined as medically needy." UPM § 5520.25(A)(2)
36. "When the amount of 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.” UPM § 5520.25(B)

37. Based on the hearing record, whether or not the Appellant’s monthly applied income exceeds the monthly MNIL of \$696.41 under the MAABD Medicaid program cannot be determined because the amount of the Appellant’s monthly applied income cannot be determined. Refer to Conclusion of Law # 32.

38. Based on the hearing record, whether or not the Appellant must meet a spenddown in order to become eligible for MAABD cannot be determined. Therefore, based on the hearing record, the amount of the Appellant’s spenddown, if any, cannot be determined.

DECISION

The Appellant’s appeal is remanded back for further action.

ORDER

The Department must recalculate the amount of income to be deemed to the assistance unit by subtracting the spouse’s personal employment expenses, if any, from her monthly gross wages effective [REDACTED] 2020. Refer to Conclusion of Law (“COL”) 24 and 25.

The Department must recalculate the applied unearned income by reducing the gross unearned income amount by the appropriate disregard based upon living arrangements, specifically \$351.00. Refer to COL 28, 29, and 30.

The Department must recalculate the total applied income to include the corrected applied unearned income and corrected deemed income. Refer to COL 31 and 32.

The Department must issue a new notice to the Appellant notifying him of any changes made to his Medicaid benefits under the MAABD program effective [REDACTED], 2020.

Compliance is due 14 days from the date of this decision.



Lisa A. Nyren
Hearing Officer

CC: Musa Mohamud, DSS #10
Judy Williams, DSS #10
Jessica Carroll, DSS #10
Jay Bartolomei, DSS #10
Garfield White, DSS #10

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.