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. #

NOTICE OF DECISION

PARTY

PROCEDURAL BACKGROUND

On 2020, the Department of Social Services (the "Department") issued (the "Appellant") a Notice of Action stating that she was being denied Husky C Medicaid Assistance for the Working Disabled because the value of her assets is more than the program asset limit.

On , 2020, the Appellant requested an administrative hearing to contest the Department's actions.

On , 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling an 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:

, Appellant
Debra James, Eligibility Services Worker, Department's Representative
Roberta Gould, Hearing Officer

STATEMENTS OF THE ISSUE

The issue to be decided is whether the Department's action to deny the Appellant Husky C Medicaid Assistance for the Employed Disabled because the Department has determined that her assets exceed the asset limit for Medicaid is correct.

FINDINGS OF FACT

1. The Appellant was received HUSKY D Medicaid assistance for herself. Hearing record)

2. On [redacted], 2020, the Appellant received a deposit of a SSDI lump sum in the amount of $25,090.00 into her People's Untied Bank account. (Exhibit 1: People's United Bank account statement dated [redacted] and Hearing summary)

3. On [redacted] 2020, the Department received the Appellant's Renewal of Eligibility form for her Medicaid assistance renewal. (Exhibit 3 and Hearing summary)

4. The Appellant receives Social Security Disability Income ("SSDI") of $1,704.00 per month. (Exhibit 2: Notice of action dated [redacted] and Hearing summary)

5. The Appellant is employed by [redacted]. (Appellant's testimony)

6. The Appellant earns $11.00 per hour and works 18 hours per week. (Exhibit 3: Case notes and Appellant's testimony)

7. The Department discontinued the Appellant's HUSKY D Medicaid assistance effective [redacted] 2020, because she became eligible for SSDI and was no longer categorically eligible for this program. (Department's representative's testimony)

8. On [redacted] 2020, the Department processed the Appellant's renewal of eligibility and determined that she was ineligible for HUSKY C Medicaid Assistance for the Working Disabled because the value of her assets exceeded the program asset limit. (Exhibit 3 and Hearing summary)

9. On [redacted], 2020, the Department issued a notice that the Appellant that she was being denied Husky C Medicaid Assistance for the Working Disabled because the value of her assets is more than the program asset limit. (Exhibit 2 and Hearing summary)

10. The Department determined that the SSDI lump sum received by the Appellant was income in the month of receipt and as an asset for the following months. (Exhibit 4: Department's email dated [redacted])

11. The issuance of this decision is timely under Connecticut General Statutes § 17b-61(a), which requires that the decision be issued within 90 days of the request for an administrative hearing. The Appellant requested an administrative hearing on [redacted], 2020. Therefore, the decision is due not later than [redacted], 2020.

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. Connecticut General Statute § 17b-597(a) authorizes the Department of Social Services to establish and implement a working persons with disabilities program to provide medical assistance as authorized under 42 USC 1396a(a)(10)(A)(ii), as amended from time to time, to persons who are disabled and regularly employed.

3. "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 Connecticut Supp. 175, 178 (1994) (citing Connecticut General Statutes § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Connecticut 601, 573 A.2d 712 (1990)).

4. UPM § 2540.85 provides that there are two distinct groups of employed individuals between the ages of 18 and 64 inclusive who have a medically certified disability or blindness and who qualify for Medicaid as working individuals with disabilities. These groups are the Basic Insurance Group and the Medically Improved Group. There is a third group of employed individuals consisting of persons at least 18 years of age who have a medically certified disability or blindness who also qualify for Medicaid as working individuals with disabilities. This is the Balanced Budget Act Group. Persons in this third group may be age 65 or older.

5. UPM § 2540.85(A)(1) provides that an individual in the Basic Insurance Group must be engaged in a substantial and reasonable work effort to meet the employment criterion.

    a. Such effort consists of an activity for which the individual receives cash remuneration and receives pay stubs from his or her employer.

    b. If the individual is self-employed, he or she must have established an account through the Social Security Administration and must make regular payments based on earnings as required by the Federal Insurance Contributions Act.

    c. An individual who meets the employment criterion but then loses employment through no fault of his or her own, for reasons such as a temporary health problem or involuntary termination, continues to meet the employment criterion for up to one year from the date of the loss of

employment. The individual must maintain a connection to the labor market by either intending to return to work as soon as the health problem is resolved, or by making a bona fide effort to seek employment upon an involuntary termination.

The Department correctly determined that the Appellant meets the criteria for Medicaid for the Employed Disabled because she receives pays stubs from her employer, is between the ages of 18 and 64, and has a medically certified disability.

6. UPM § 4030.45(A) provides that "Lump sum payments include but are not limited to:

    a. settlement of personal injury or property claim;

    b. retroactive payment from:

        1. unemployment compensation;

        2. Social Security;

        3. Supplemental Security Income;

    c. insurance claim;

    d. lottery winnings."

The Department correctly determined that the SSDI deposit the Appellant received on [redacted], 2020, in the amount of $25,090.00 was a lump sum payment.

7. UPM § 4030.45(C)(2) provides that in Medically Assistance the Aged, Blind and Disabled ("MAABD"):

    a. "A lump sum is considered income during the six month eligibility period which includes the month of receipt of the lump sum. Any part of the lump sum remaining after this time is an asset.

    b. Any portion of a lump sum that is transferred either during the six month eligibility period or subsequently is also subject to the transfer of assets provisions (Cross Reference: 3028)."

The Department incorrectly determined that the Appellant's SSDI lump sum payment was income in the month of receipt and an asset thereafter.

8. UPM § 5050.65(D)(2)(c) provides that "When the lump sum is unearned income, the lump sum amount is:

(1) Added to any other gross unearned income received in the same month as the lump sum; and

(2) Adjusted by subtracting any appropriate deductions and disregards from the total."

UPM § 5050.65(D)(3) provides for Categorically Needy Coverage Groups:

a. The total applied earned and unearned income in the month of receipt of the lump sum, which includes the remaining portion of the lump sum, is compared to the CNIL for the same month.

b. If the total income is equal to or does not exceed the CNIL, the assistance unit is eligible as categorically needy. In this case, any portion of the lump sum which remains in the unit's possession in the month following the month of receipt is treated as an asset.

c. If the total income is equal to or exceeds the CNIL, the assistance unit is not eligible as categorically needy for that month, and eligibility under a medically needy coverage group must be established.

UPM § 5050.65(D)(4) provides for Medically Needy Coverage Groups:

a. The total applied earned and unearned income in the month of receipt of the lump sum, which includes the remaining portion of the lump sum, is added to all other income the unit expects to receive during the next five months.

b. The total applied income for the six month period is compared to the total MNIL for the same six month period for the needs group.

c. If the total income does not exceed the total of the MNIL for the same period, the assistance unit is eligible for assistance for the six month period of eligibility.

d. If the total income exceeds the MNIL, spenddown rules are followed to determine when benefits can begin (Cross Reference: 5520.20).

e. After the six month period of eligibility, any portion of the lump sum which is retained by the unit is treated as an asset.

9. UPM § 5050.13(A) provides that "Income from Social Security and Veterans' benefits are treated as unearned income in all programs. It further states that this income is subject to unearned income disregards in the AABD and MAABD programs."

The Department correctly determined that the Appellant's monthly unearned income in ████ of 2020 was SSDI of $1,704.00 per month plus the SSDI lump sum of $25,090.00 received on ████ 2020.

The Department incorrectly determined that the $25,090.00 SSDI lump sum received by the Appellant was an asset after the initial month of receipt.

On ████, 2020, the Department incorrectly denied the Appellant Husky C Medicaid Assistance for the Employed Disabled because her assets exceeded the asset limit for Medicaid.

DISCUSSION

After reviewing the evidence and testimony presented at this hearing, I find that the Department acted incorrectly when it took action to deny the Appellant's application for HUSKY C Medicaid Assistance for the Working Disabled because the value of her assets is more than the program asset limit. Departmental policy clearly states that a lump sum is considered income during the six month eligibility period which includes the month of receipt of the lump sum and, if the total income exceeds the MNIL, spenddown rules are followed to determine when benefits can begin. Any part of the lump sum remaining after this time is considered an asset.

DECISION

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

ORDER

1. The Department shall reopen the Appellant's application for HUSKY C Medicaid Assistance for the Working Disabled back to ████ of 2020, and continue the eligibility process by establishing a spenddown period beginning with the month of receipt of the SSDI lump sum.

2. No later than ████, 2020, the Department will submit to the undersigned verification of compliance with this order.

Roberta Gould
Hearing Officer

Cc: Rachel Anderson, Social Services Operations Manager, DSS New Haven
Cheryl Stuart, Social Services Operations Manager, DSS New Haven
Lisa Wells, Social Services Operations Manager, DSS New Haven
Debra James, Eligibility Services Worker, DSS New Haven

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.