

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

████████████████████
Hearing ID #: 157483

NOTICE OF DECISION

PARTY

████████████████████
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████████████████████

PROCEDURAL BACKGROUND

██████████ 2020, the Department of Social Services (the "Department") sent ██████████
██████████, (the "Appellant") a Notice of Action ("NOA") discontinuing his medical benefits
under the HUSKY C-Medically Needy Aged, Blind or Disabled-Spenddown ("MAABD")
program.

On ██████████, 2020, ██████████, the Appellant's Authorized Representative ("AREP")
requested an administrative hearing to contest the discontinuance of the medical benefits.

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 a telephonic
administrative hearing. The following individuals participated in the hearing:

██████████, Appellant's Authorized Representative ("AREP") and Mother
Joseph Alexander, Department's Representative
Carla Hardy, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly discontinued the Appellant's MAABD spenddown benefits.

FINDINGS OF FACT

1. The Appellant has been receiving services on a Department of Developmental Services ("DDS") waiver since [REDACTED] 2019. (AREP's Testimony)
2. The Appellant has been on a medical spenddown for the last two spenddown periods covering [REDACTED] 2019 through [REDACTED], 2020. (Hearing Summary)
3. The Appellant has not submitted any medical bills toward either of the two spenddown periods. (AREP's Testimony; Hearing Summary)
4. The Appellant does not need medical insurance from the Department because he is on the AREP's medical insurance plan. (AREP's Testimony)
5. The Department did not mail a renewal form to the Appellant for a new [REDACTED] 2020 through [REDACTED] 2020 spenddown period. (Exhibit 3: Case Notes; Hearing Summary)
6. On [REDACTED] 2020, the Department issued a notice to the Appellant advising him that his HUSKY C, MAABD spenddown medical program was closed effective [REDACTED] [REDACTED] 2020 because he did not provide proof that he had enough medical expenses to meet his spenddown in either of the last two 6-month spenddown periods. (Exhibit 1: NOA, [REDACTED]/20)
7. On [REDACTED] 2020, the Department received the Appellant's renewal form. (Exhibit 3: Case Notes)
8. On [REDACTED] 2020, the Department reviewed the Appellant's renewal form that was submitted by the AREP on [REDACTED] 2020. The Department reinstated the Appellant's MAABD spenddown. (Exhibit 3)
9. On [REDACTED] 2020, the Department concluded that reinstating the Appellant's MAABD spenddown on [REDACTED] 2020, was an error and withdrew the reinstated program. (Exhibit 3)
10. 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] [REDACTED] 2020. Therefore, this decision is due not later than [REDACTED] 2020. (Hearing Record)

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. Title 42 of the Code of Federal Regulations (“CFR”) Section 435.831 provides for income eligibility. The agency must determine income eligibility of medically needy individuals in accordance with this section.
 - a. Budget periods.
 - (1) The agency must use budget periods of not more than 6 months to compute income. The agency may use more than one budget period.
 - (2) The agency may include in the budget period in which income is computed all or part of the 3-month retroactive period specified in § 435.915. The budget period can begin no earlier than the first month in the retroactive period in which the individual received covered services. This provision applies to all medically needy individuals except in groups for whom criteria more restrictive than that used in the SSI program apply.
3. The Department uses two budget periods.
4. If a spenddown is not met i.e. remains in inactive status, for two consecutive spenddown periods within the renewal cycle, a renewal packet will not be sent by the system, and at the end of the certification period the spenddown will be closed. [Release Buzz 11.6, █████/19]
5. “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 (1994) (citing Conn. Gen. Stat. § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A.2d 712 (1990)).
6. UPM § 1565.05(A) provides when eligibility has been determined to no longer exist, the last day for which the assistance unit is entitled to the benefits of the program is:
 1. The last day of the month preceding the month in which ineligibility is caused by:
 - a. Excess income or excess assets-AFDC, AABD, MA;
 - b. Striking – AFDC only; or
 2. The last day of the month in which a nonfinancial eligibility factor causes ineligibility, provided that eligibility had existed on the first of the month. This includes death of a recipient.
7. The Appellant remained inactive for two consecutive spenddown periods.
8. The Department was correct to discontinue the MAABD spenddown at the end of the certification period effective █████ 2020.

9. UPM § 1545.45(A) provides that the following provisions apply to AFDC, AABD, or MA assistance units whose eligibility was discontinued at the end of the redetermination period because they failed to complete the redetermination process.
 1. Untimely filing
 - a. Redetermination forms filed in the month following the redetermination month are treated as initial applications if good cause is not established for the untimely filing.
 - b. If good cause is established:
 - (1) the case is processed as a late redetermination; and
 - (2) eligibility is redetermined within five working days of the date the assistance unit completes all required actions.
10. On [REDACTED] 2020, the Appellant filed an untimely redetermination form.
11. UPM § 1505.10(D)(1) provides for AFDC, AABD and MA applications, except for the Medicaid coverage groups noted below in 1510.10 D.2, the date of application is considered to be the date that a signed application form is received by any office of the Department.
12. UPM § 1010.05(A)(1) provides that the assistance unit must supply the Department in an accurate and timely manner as defined by the Department, all pertinent information and verification which the Department requires to determine eligibility and calculate the amount of benefits.
13. UPM § 1505.40(A)(4) provides that the Department may complete the eligibility determination at any time during the application process when:
 - a. the applicant withdraws the application; or
 - b. all requirements for determining eligibility on a FS expedited service application are met; or
 - c. the application process is complete and all required verification has been obtained; or
 - d. adequate information exists to determine ineligibility because one or more eligibility requirements are not satisfied; or
 - e. the applicant refuses to cooperate in completing an eligibility requirement rendering the entire assistance unit ineligible.
14. On [REDACTED], 2020, the Department correctly determined that they received the Appellant's application on [REDACTED] 2020, and determined eligibility for the MAABD spenddown.
15. On [REDACTED] 2020, the Department incorrectly deduced that determining eligibility for the Appellant's MAABD spenddown on [REDACTED] 2020, was an error.
16. On [REDACTED] 2020, the Department incorrectly discontinued the MAABD spenddown that was determined on [REDACTED] 2020.

DISCUSSION

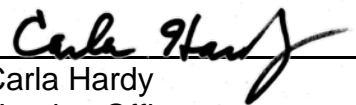
The AREP was concerned that the discontinuance of the Appellant's MAABD spenddown would affect his eligibility for the DDS waiver services. The waiver and the MAABD spenddown are two separate programs issued by separate departments, the Department of Social Services and the Department of Developmental Services. It is possible for the Appellant to receive the DDS waiver services without the MAABD spenddown. However, the AREP submitted a redetermination on behalf of the Appellant which should have been treated as a new application for the MAABD spenddown.

DECISION

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

ORDER

1. The Department must reevaluate eligibility for MAABD using the [REDACTED] 2020 application date.
2. Compliance with this order shall be forwarded to the undersigned no later than [REDACTED] 2020.


Carla Hardy
Hearing Officer

Pc: Fred Presnick, Yecenia Acosta, Tim Latifi, Joe Alexander, Princess O'Reggio Department of Social Services RO 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 Legal Counsel, Regulations, and Administrative Hearings, 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 06105-3725. 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 his 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.