

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. # ██████████
Case Id. # ██████████
Hearing Id. # 158516

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") stating that she must meet a spenddown before her Medicaid can be activated.

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

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 by phone. The following individuals were present at the hearing:

██████████, Appellant
Debra James, Department's Representative
Scott Zuckerman, 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 received medical assistance through [REDACTED] [REDACTED], 2020. (Department's testimony)
2. On [REDACTED] 2020, the Appellant submitted her renewal for the Medicare Savings Program ("MSP"). (Hearing Record)
3. The Appellant resides alone. (Appellant Testimony)
4. The Appellant is [REDACTED]-[REDACTED] ([REDACTED] years old. (Appellant's Testimony)
5. Effective [REDACTED] 2020, the Appellant receives monthly benefits from Social Security ("SSA) in the amount of \$797.00. (Appellant Testimony, Hearing Summary, Exhibit 4: SSA letter)
6. The Appellant receives a pension from the [REDACTED] [REDACTED] of \$84.00 monthly. (Appellant's testimony, Hearing Summary, Exhibit 3: Pension Statement)
7. On [REDACTED], 2020, the Department sent the Appellant a Notice of Action. The notice stated the Appellant's income is too high for medical coverage and she must meet a spenddown amount of \$39.72 in order to qualify for medical. The Appellant's spenddown period is [REDACTED] 2020 to [REDACTED], 2020. (Exhibit 5: Notice of Action, [REDACTED]/2020)
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] 2020. Therefore, this 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. "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 Maintenance*, 214 Conn. 601, 573 A.2d (1990)).
3. Uniform Policy Manual ("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. "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)

The Department correctly determined that the MNIL for the Appellant's assistance unit for one person residing in Region B was \$523.38.

5. "Income from Social Security is treated as unearned income for all programs." UPM § 5050.13(A) (1)
6. "Payments received by the assistance unit from annuity plans, pensions and trusts are considered unearned income." UPM 5050.09(A)
7. "For past months the Department uses the exact amount of the unit's available income received or deemed in the month." UPM § 5025.05(A)(1)
7. "If income is received on other than a monthly basis, the estimate of income is calculated by multiplying 4.3 by a representative weekly amount that is determined as follows: if income is the same each week, the regular weekly income is the representative weekly amount. "UPM § 5025.05(B)(2)(a)

The Department correctly determined that the Appellant's total monthly unearned income was \$881.00 (\$797.00 Social Security benefits + \$84.00 pension).

9. "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." UPM § 5050.13(A)(2)

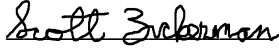
10. "Except as provided in section 5030.15 D., unearned income disregards are subtracted from the unit member's total gross monthly unearned income." UPM § 5030.15(A)
11. UPM § 5030.15(B)(1)(a) provides that the disregard is \$278.00 for those individuals who reside in their own homes in the community 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
- The Department correctly applied the current standard unearned income disregard of \$351.00 per month to the Appellant's income.**
- The Department correctly determined that the Appellant's applied income was \$530.00 (\$881.00 unearned income - \$351.00 = \$530.00).**
12. "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." UPM § 5520.20(B)(1)
13. "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. UPM § 5520.20(B)(5)
14. "When the unit's total applied income is greater than the total MNIL, the assistance unit is ineligible until the excess income is offset through the spenddown process." UPM § 5520.20(B)(5)(b)
15. UPM § 5520.25 (B)(7) provides in part that when the amount of the 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. Income eligibility for the assistance unit exists as of the day when excess income is totally offset by medical expenses.

The Department correctly determined that the Appellant's applied income exceeds the MNIL by \$6.62 (\$530.00 applied income - \$523.38 MNIL = \$6.62).

The Department correctly determined that the Appellant's six-month spenddown amount is \$39.72 (\$6.62 x 6 months) for the period from [REDACTED] to [REDACTED].

DECISION

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


Scott Zuckerman
Hearing Officer

Pc: Rachel Anderson, Operations Manager, DSS, New Haven Regional Office
Cheryl Stuart, Operations Manager, DSS, New Haven Regional Office
Lisa Wells, Operations Manager, DSS, New Haven Regional Office
Debra James, Fair Hearings Liaison, DSS, New Haven Regional Office

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.