

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

██████████ 2021
Signature Confirmation

Client ID # ██████████
Case ID # ██████████
Request # 169282

NOTICE OF DECISION
PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2020, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") approving Medicaid benefits under the Medicaid Assistance for Aged, Blind, and Disabled Program ("MAABD") under a spenddown for the months of ██████████ 2020 through ██████████ 2020 and for the retroactive month of ██████████ 2020.

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 ██████████ 2021.

On ██████████ 2021, 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 via telephone.

The following individuals participated in the hearing via telephone:

██████████, Appellant
██████████ Appellant's Authorized Representative
Mary Beth Mark, Department's Representative
Marci Ostroski, Hearing Officer

The hearing record remained open for the submission of additional information. The department provided exhibits and the record closed [REDACTED], 2021.

STATEMENT 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 becoming eligible for Medicaid.

FINDINGS OF FACT

1. From [REDACTED] [REDACTED] 2020, through [REDACTED] [REDACTED], 2020, the Appellant was hospitalized. During his hospitalization the staff assisted him in applying for Social Security Retirement benefits through the Social Security Administration ("SSA"). (Appellant's Hearing summary; Authorized Representative's Testimony)
2. On [REDACTED] 2020, the Appellant, with the assistance of the hospital, applied for medical coverage under the HUSKY C Medicaid program. The Appellant also requested retroactive coverage for the month of [REDACTED] 2020. (Appellant's Hearing summary; Authorized Representative's Testimony; Department's Hearing Summary)
3. On [REDACTED] 2020, the SSA granted the Appellant monthly retirement benefits retroactive to [REDACTED] 2019. (Ex. B: Social Security Grant Letter, [REDACTED]/20)
4. On [REDACTED], 2020, the SSA issued a check to the Appellant in the amount of \$12,272.00 as his retroactive retirement benefit representing the months of [REDACTED] 2019 through [REDACTED] 2020. The Appellant's [REDACTED] 2020 benefit would not be issued by the SSA until approximately the second Wednesday of [REDACTED] (Ex. B: SSA letter, [REDACTED]/20; Ex. C: SSA check, [REDACTED] 20)
5. From [REDACTED] [REDACTED], 2020, through [REDACTED] [REDACTED], 2020, the Appellant was institutionalized at [REDACTED] [REDACTED] [REDACTED]. (Appellant's summary; Authorized Representative's Testimony)
6. The Appellant did not have a form of identification when he received the SSA lump sum check. (Authorized Representative's Testimony)

7. On [REDACTED], 2020, the Department issued a Spenddown Welcome Packet which stated that his income is too high to qualify for Medicaid at this time and his spenddown amount for the period of [REDACTED] 2020 through [REDACTED] 2020, was \$5242.32. (Ex. 5: Spenddown Welcome Packet)
8. The Hearing Record does not reflect that the lump sum was used in the calculation of the Appellant's eligibility. (Hearing Record)
9. On [REDACTED], 2020, the Department applied a medical bill of \$3,010.60 with a date of service of [REDACTED], 2020, toward the Appellant's spenddown of \$5,242.32 leaving a remaining balance of \$2,231.72 for the [REDACTED] 2020 through [REDACTED] 2020 spenddown period. (Ex. 2: MA EDG Summary; Ex. 8: Medical Expenses Summary; Department's Testimony)
10. On [REDACTED], 2020, the Department sent the Appellant a Notice of Action granting the HUSKY C spenddown for the months of [REDACTED] through [REDACTED] 2020 and the retroactive month of [REDACTED] 2020. The NOA states that the Appellant's income is too high to qualify for Medicaid, at this time, but further states that the amount of his spenddown is \$0.00. (Ex. 7: Notice of Action, [REDACTED]/20)
11. The Appellant's assistance unit consists of himself as one member. (Hearing Record)
12. The Appellant is [REDACTED] years old (D.O.B. [REDACTED]/52). (Ex. 3: Bendex Inquiry Details)
13. In the 2020 calendar year the Appellant received Social Security Retirement ("SSA") benefits in the amount of \$1816.00 per month gross. (Ex. 4: SOLQ Details, Ex. B: Social Security letter [REDACTED]20; Appellant's Testimony)
14. The Appellant is enrolled in Medicare Part A and B and is active on the Medicare Savings Plan Qualified Medicare Beneficiaries program which pays the Appellant's Medicare Part B monthly premiums. (Ex. B: Social Security letter [REDACTED]/20; Ex. 7: Notice of Action, [REDACTED]/20)
15. As of the date of the Administrative Hearing the Department's eligibility system, Impact, reflected that the Appellant's spenddown for [REDACTED] 2020, and for the [REDACTED] 2020 through [REDACTED] 2020, period was authorized and activated. (Department's testimony; Ex. 1: MA EDG Summary [REDACTED]/20; Ex. 2: MA EDG Summary, [REDACTED]/20)
16. As of the date of the Administrative Hearing, the Appellant had approximately \$80,000 in unpaid medical bills. The Appellant's Representative has attempted to submit the bills to the Spenddown Unit

but the Spenddown Unit has informed her that they are unable to apply the bills as the spenddown is active. The Appellant's medical providers have attempted to bill Medicaid for the Appellant's outstanding medical bills and coverage for the time-period has been denied for the reason that the Appellant is on a spenddown that has not been activated. (Authorized Representative's Testimony)

17. The issuance of this decision is timely under section 17b-61(a) of Connecticut General Statutes, 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. This decision, therefore, was due no later than [REDACTED] 2020. However, the hearing record, which had been anticipated to close on [REDACTED] 2021, did not close for the admission of evidence until [REDACTED], 2021. Because of this seven-day delay in the close of the hearing record, this final decision was not due until [REDACTED], 2019, and is therefore timely. (Hearing Record)

CONCLUSIONS OF LAW

1. Section 17b-2 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 ("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*, 2017 Conn. 601, 573 A.2d 712 (1990)).
3. Uniform Policy Manual ("UPM") § 2540.01 (A) provides that in order to qualify for medical assistance, an individual must meet the conditions of at least one coverage group.
4. UPM § 2540.01(C) provides that individuals qualify for medical assistance ("MA") as medically needy if:
 1. their income or assets exceed the limits of the Aid to Families with Dependent Children ("AFDC") or Aid to the Aged, Blind and Disabled ("AABD") programs; and
 2. their assets are within the medically needy asset limit; and
 3. their income either:
 - (a) is within the Medically Needy Income Limit ("MNIL"); or
 - (b) can be reduced to the MNIL by a spend-down of medical expenses.

5. UPM § 5515.05 (C)(2) provides in part that the needs group for an MAABD unit includes the following: the applicant or recipient. (Cross reference: 2540.85)
6. The Department correctly determined the Appellant's needs group consists of one member.
7. UPM § 4530.15 (A) 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 Medically Needy Income Limit ("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.
8. 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.
9. UPM § 4510.10(A)(1) provides that the State of Connecticut is divided into three geographic regions on the basis of a similarity in the cost of housing. Separate standards of need are established for each state region. The standard of need which is applicable to a particular assistance unit is based on:
 - (a) The current region of residence; and
 - (b) The appropriate needs group size.
10. UPM § 4510.10(B)(2) provides that [REDACTED] is Region B.
11. The Department correctly determined that the Appellant is a needs group of one residing in Region B with the MNIL for the Appellant's assistance unit of \$523.38.
12. UPM § 5050.13(A)(1) provides that income from Social Security is treated as unearned income in all programs.
13. The Appellant's total monthly unearned income from Social Security is \$1816.00.
14. UPM § 5050.13(A)(2) provides that Social Security income is subject to an unearned income disregard in the AABD and MAABD programs.
15. 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.

16. UPM § 5030.15(C)(2)(a) provides that all of the disregards used in the AABD programs are used to determine eligibility for MAABD.
17. UPM § 5030.15(B)(1)(a) provides for the standard disregard as \$351.00 [effective 1/1/20] 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 current unearned income disregard is \$351.00.
18. The standard unearned income disregard is \$351.00 per month.
19. UPM § 5045.10(C)(1) provides that 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.
20. UPM § 5045.10(E) provides that the assistance unit's total applied income is the sum of the unit's applied earnings, applied unearned income, and the amount deemed.
21. The Appellant's total applied income is \$1465.00 (\$1816.00 - \$351.00).
22. 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.
23. UPM § 5520.20(B)(5)(a) 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.
24. UPM § 5520.20(B)(5)(b) provides that 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 spend-down process.
25. UPM § 5520.25 (B) provides 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.
26. The Appellant's applied income exceeds the MNIL by \$941.62 per month (\$1465.00 - \$523.38 = \$941.62).

27. UPM § 5050.65(D)(1)(b) provides for treatment of lump sums in the MAABD program; Lump sums received in the month of application or after are treated as income in the month of receipt.
28. The Appellant received the SSA lump sum in the month of [REDACTED] 2020, the month of application.
29. UPM § 5050.65(D)(4) provides for lump sums under the Medically Needy Income Group 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.
30. UPM § 5000.01 provides for the definition of inaccessible income: Inaccessible income is money which an assistance unit member is due but neither receives nor benefits from due to circumstances beyond his or her control.
31. In the month of [REDACTED] 2020, the Appellant was due money however he neither received nor benefitted from that money. The income was inaccessible for [REDACTED] 2020.
32. In the month of [REDACTED] 2020, the Appellant was due money. Due to his hospitalization, and his inability to access a state issued ID to cash the SSA check, he did not benefit from the money, but he did receive the money in the form of the SSA check. The income was accessible for the month of [REDACTED] 2020, and ongoing.
33. The Appellant's prospective six-month spend-down is \$17,921.72 ($\$941.62 \times 6 + \$12,272.00$) for the period of [REDACTED] 2020 through [REDACTED] 2020.
34. UPM § 5520.25 (B)(1) provides that medical expenses are used for a spend-down if they meet the following conditions:

- a. the expenses must be incurred by person whose income is used to determine eligibility;
 - b. any portion of an expense used for a spend-down must not be payable through third party coverage unless the third party is a public assistance program totally financed by the State of Connecticut or by a political subdivision of the State;
 - c. there must be current liability for the incurred expenses, either directly to the provider(s) or to a lender for a loan used to pay the provider(s), on the part of the needs group members;
 - d. the expenses may not have been used for a previous spend-down in which their use resulted in eligibility for the assistance unit.
35. UPM § 5520.25 (B)(7) provides that income eligibility for the assistance unit exists as of the day when excess income is totally offset by medical expenses.
36. The Department incorrectly determined that the Appellant's monthly income in the month of [REDACTED] 2020 exceeds the MNIL and incorrectly placed the Appellant under a spenddown for [REDACTED] 2020.
37. The Department correctly determined that the Appellant's monthly income exceeds the MNIL and correctly placed the Appellant under the Medicaid spend-down program for the months of [REDACTED] 2020 through [REDACTED] 2020.
38. The Department correctly determined the Appellant needs to meet a spend-down for the months of [REDACTED] 2020 through [REDACTED] 2020 in order to become eligible for medical benefits under the MAABD program because his income exceeds the Medically Needy Income Limit.
39. The Department failed to properly process and activate the Appellant's spenddown based on the medical bills provided

DISCUSSION

The Appellant and his Representative are disputing the Appellant's placement into a spenddown for the month of [REDACTED] and for the months of [REDACTED]. The Appellant not only received a lump sum payment from the SSA in [REDACTED] but he also began receiving monthly income which placed him over the Medically Needy Income Limit for the HUSKY C program.

The Appellant's Representative argued that while he did receive a check from SSA he was unable to cash it due to circumstances outside of his control. I agree that for the month of [REDACTED] 2020 the Appellant's income was inaccessible. He did not receive the check nor was he able to benefit from the check in [REDACTED] 2020. While he did have difficulty cashing the check in [REDACTED] state regulations provide that it can only be considered inaccessible in months where the money is neither received nor benefitted from. The Appellant received the check and therefore it does place him over the income limit. The Department was correct to place him in a spenddown for [REDACTED] through [REDACTED], though they failed to consider the lump sum in the calculation of the spenddown.

While the Appellant was correctly placed in a spenddown, the Department failed to properly process and activate that spenddown. The Appellant's Representative provided credible testimony that she had provided multiple bills to the Department for application to the spenddown only to be told that the spenddown was activated therefore the bills could not be applied. Yet when the Appellant's providers have attempted to bill the Department for services, the spenddown is not activated.

The Department's Representative was unable to explain why the Department's Impact system was showing the spenddown as met and activated but yet not actually covering the Appellant's medical expenses. This Officer requested the Department to escalate the apparent system error to the IT Department however a resolution to this issue was not reached.

DECISION

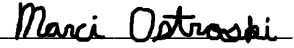
The Appellant's appeal regarding the spenddown for [REDACTED] 2020 is **GRANTED**.

The Appellant's appeal regarding the spenddown for [REDACTED] 2020 is **DENIED in part and REMANDED in part**

ORDER

1. The Department will remove the income from the Appellant's case for [REDACTED] 2020 and will ensure that his HUSKY C is active for that month.
2. The Department will obtain the medical bills from the Appellant for dates of service from [REDACTED] 2020 ongoing and apply them to his spenddown for [REDACTED] 2020.

3. The Department will properly activate the [REDACTED] 2020 spenddown if the medical bills provided meet the applicable spenddown.
4. Compliance with this order is due to the undersigned within 10 days of this notice, [REDACTED] 2021.



Marci Ostroski
Hearing Officer

cc: Cheryl Stuart, DSS Operations Manager, DO#40 Norwich
Mary Beth Mark, DSS Liaison, DO#40 Norwich

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, 165 Capitol Avenue, 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.