

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 # ██████████
Request # ██████████

NOTICE OF DECISION
PARTY

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PROCEDURAL BACKGROUND

On ██████████, 2021, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") discontinuing Medicaid benefits under the HUSKY C Medically Needy Aged, Blind, and Disabled Spenddown ("MAABD") program effective ██████████, 2021.

On ██████████ 2021, the Appellant requested an administrative hearing to contest the Department's action.

On ██████████, 2021, 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:

██████████, Appellant
Ferris Clare, Department's Representative
Sara Hart, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether the Department correctly discontinued the Appellant's HUSKY C MAABD spenddown program.

FINDINGS OF FACT

1. The Appellant has been a non-recipient on a HUSKY C MAABD medical spenddown for the last two spenddown periods covering [REDACTED] 2020 through [REDACTED] 2021. (*Exhibit 1: MA EDG Summary, Department's Testimony*)
2. The most recent certification period covered [REDACTED] 2020 through [REDACTED] 2021. (*Exhibit 1, Department's Testimony*)
3. The Appellant is [REDACTED] years old and resides in [REDACTED], Connecticut. She is the only individual residing in her home. (*Appellant's Testimony*)
4. The Appellant receives a \$934.00 gross monthly Social Security Retirement ("SSA") benefit. (*Appellant's Testimony*)
5. The Appellant has not submitted any medical bills to apply toward the spenddown for the current or previous certification periods. (*Appellant's Testimony, Department's Testimony*)
6. On [REDACTED] 2021, the Department issued a NOA to the Appellant advising her that her HUSKY C MAABD spenddown medical was closed effective [REDACTED] 2021 because she did not provide proof that she had enough medical expenses to meet her spenddown in either of the last two 6 month spenddown periods. (*Exhibit 2; NOA dated [REDACTED] 2021*)
7. 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] 2021. This decision, therefore, is due no later than [REDACTED] 2021. (*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*, 214 Conn. 601, 573 A.2d 712 (1990)).
3. 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 § 2540.96(A) provides for the MAABD coverage group to include individuals who:
 - a. Meet the MAABD categorical eligibility requirements of age, blindness, or disability; and
 - b. Are not eligible as categorically needy; and
 - c. Meet the medically needy income and asset criteria.

The Department correctly determined that the Appellant meets the eligibility requirement of “aged” under the HUSKY C MAABD program.

5. UPM § 5515.05(C)(2) provides in part that the needs group for an MAABD unit includes the following:
 - a. the applicant or recipient.

The Department correctly determined that the Appellant is a needs group of one.

6. UPM § 5050.13(A)(1) provides that income from Social Security is treated as unearned income for all programs.

The Department correctly determined that the Appellant’s total gross monthly unearned income is \$934.00.

7. UPM § 2540.01(C) provides that individuals qualify for medical assistance 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.

The Department correctly determined that the Appellant’s unearned income exceeds the MNILA and can be reduced to the MNIL by the spenddown of medical expenses.

8. Title 42 of the Code of Federal Regulations (“C.F.R.”) § 435.831 provides for income eligibility and states that 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.

UPM § 5520.20(B)(1) provides that a six-month time period for which eligibility will be determined is established to include the month of application and the five consecutive calendar months that follow.

The Department correctly established two consecutive six-month budget periods.

9. 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.

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.

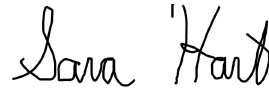
The Appellant did not provide the Department with medical expenses and remained inactive for two consecutive spenddown periods.

10.42 C.F.R. § 435.916(b) provides for periodic renewal of Medicaid eligibility and states that the agency must redetermine the eligibility of Medicaid beneficiaries excepted from modified adjusted gross income under §435.603(j) of this part, for circumstances that may change, at least every 12 months. The agency must make a redetermination of eligibility in accordance with the provisions of paragraph (a)(2) of this section, if sufficient information is available to do so. The agency may adopt the procedures described at §435.916(a)(3) for individuals whose eligibility cannot be renewed in accordance with paragraph (a)(2) of this section.

The Department was correct to discontinue the Appellant's HUSKY C MAABD, which was in a spenddown, at the end of the second consecutive certification period, effective [REDACTED], 2021.

DECISION

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



Sara Hart
Hearing Officer

Cc: Rachel Anderson, DSS Operations Manager New Haven
Cheryl Stuart, DSS Operations Manager New Haven
Lisa Wells, DSS Operations Manager New Haven
Ferris Clare, Department's Representative 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.

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.

