

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3725

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

Client Id. # ██████████
Case Id. # ██████████
Hearing Id. # 179492

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

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, 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
██████████, Appellant's father and Authorized Representative
██████████, Appellant's mother and Authorized Representative
Rose Montinat, 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. Sometime in [REDACTED]h 2020, the Appellant's employment through [REDACTED] ended due to the Covid 19 Pandemic. (Appellant's father's testimony)
2. The Appellant received medical assistance through the working disabled program through [REDACTED] 2021. (Department's testimony)
3. The Appellant resides alone. (Appellant representative's Testimony)
4. The Appellant is 40 years old and is disabled. (Hearing Record)
5. Effective [REDACTED] 2021, the Appellant receives monthly benefits from Social Security Disability ("SSDI") in the amount of \$752.00 and SSDI in the amount of \$447.00 for a total of \$1199.00. (Appellant Testimony, Hearing Summary)
6. The Appellant receives a monthly Department of Developmental Disabilities ("DDS") housing subsidy in the amount of \$855.59. (Hearing Summary)
7. The Appellant is a recipient of the Medicare Savings Program ("MSP") – Qualified Medicare Beneficiaries. (Hearing Record)
8. On [REDACTED] 2021, 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 \$1,830.00 in order to qualify for medical. The Appellant's spenddown period is [REDACTED], 2021 to [REDACTED], 2021. (Exhibit 3: Notice of Action, [REDACTED] 2021)
9. 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] 2021. Therefore, this decision is due not later than [REDACTED] 2021. (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. "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") § 2540.85(A)(c) provides for Working Individuals with Disabilities and provides that 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 criteria 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.
4. 42 Code of Federal Regulations ("CFR") Section § 433.300 provides in part for Minimum Essential Coverage ("MEC") and states that Medicaid coverage that meets the definition of MEC including coverage in Medicare with coverage under a Medicaid Medicare Savings eligibility group (this includes the eligibility groups for Qualified Medicare Beneficiaries, Specified Low – Income Medicare Beneficiaries, and Qualified Working Disabled Individuals).

The Department correctly continued the Appellant's Medicaid for Working individuals with Disabilities because she was laid off from her job in [REDACTED] 2020.

The Department correctly discontinued the Appellant's Medicaid for Individuals with Disabilities because she is enrolled in the MSP program and meets the MEC provisions.

5. 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.
6. "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 \$532.00.

7. “Income from Social Security is treated as unearned income for all programs.” UPM § 5050.13(A) (1)
8. “The following payments are excluded when determining eligibility and calculating benefits: State funded assistance payments which are based on need if the recipient’s income is used to establish the amount of the payment.” UPM § 5015.10(F)(20)

The Department correctly determined that the Appellant’s DDS subsidy is an excluded payment in determining eligibility and calculating benefits.

9. “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)
10. “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 \$1199.00 (\$752.00 SSDI + \$447.00 SSDI).

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 \$362.00 per month to the Appellant’s income.

The Department correctly determined that the Appellant's applied income was \$837.00 (\$1199.00 unearned income - \$362.00).

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 \$305.00 (\$837.00 applied income - \$532.00 MNIL).

The Department correctly determined that the Appellant's six-month spenddown amount is \$1830.00 (\$305.00 x 6 months) for the period from [REDACTED] 2021 to [REDACTED], 2021).

The Department correctly determined that the Appellant must meet a spenddown amount of \$1,830.00 to qualify for Medicaid.

DISCUSSION

The Department's decision that the Appellant is over the MNIL and must meet a spenddown before being eligible for Medicaid is upheld.

The Appellant was covered in the Medicaid for the employed disabled program ("MED") through [REDACTED], 2021. The MED provides Medicaid coverage one year after employment ends due to no fault of the recipient. The Appellant's employment ended in [REDACTED] 2020 when her employer closed due to the Covid – 19 public health emergency. The Appellant received

assistance under the MED coverage group over twelve months due to the public health emergency. However, guidance from the Centers for Medicare and Medicaid Services in [REDACTED] 2021 state that States may terminate individuals not validly enrolled and are permitted to transition individuals between coverage groups as long as the new coverage group provides the same tier of coverage, even if it results in reduction in benefits. The Appellant was past the one year of MED eligibility. The Appellant is active in the Medicare Saving Plan / Qualified Medicare Beneficiary program ("QMB"). This coverage provides the Minimum Essential coverage.

The Department was correct in determining that the Appellant's applied income exceeded the MNIL for the spenddown period of [REDACTED], 2021 through [REDACTED] 2021. The Department was correct in determining that the Appellant must meet a spenddown amount before being eligible for Medicaid. As of the date of the hearing, the Appellant did not provide any medical bills to the Department to offset the spenddown.

DECISION

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

Scott Zuckerman
Scott Zuckerman
Hearing Officer

Pc: Musa Mohamud, Operations Manager, DSS, Hartford Regional Office
Judy Williams, Operations Manager, DSS, Hartford Regional Office
Jessica Carroll, Operations Manager, DSS, Hartford Regional Office
Jay Bartolomei, Fair Hearing Liaison Supervisor, DSS, Hartford Office
Rose Montinat, Fair Hearings Liaison, DSS, Hartford 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.

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.