

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

██████████ 2022
Signature Confirmation

Case ID # ██████████
Client ID # ██████████
Request # 188363

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████ 2021, the Department of Social Services (the “Department”) sent ██████████ (the “Appellant”) a notice denying his application for the Aid to the Aged, Blind, and Disabled (“AABD”) program due to having a gross income more than the program limit.

On ██████████ 2022, the Appellant requested an administrative hearing to contest the Department’s action.

On ██████████ 2022, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2022.

On ██████████ 2022, in accordance with sections 17b-60, 17b-61, and 4-176e to 4-184, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing by telephone conference.

The following individuals participated in the hearing:

██████████ Appellant’s Counsel
Ni’ta Freeman, Department’s Representative
Christopher Turner, Hearing Officer

Two additional decisions will be issued concerning the Department's denial of the Appellant's MAABD and MSP applications.

STATEMENT OF THE ISSUE

The issue is whether the Department's decision to deny the Appellant's AABD application was correct.

FINDINGS OF FACT

1. On [REDACTED] 2021, the Department received an application for cash assistance from the Appellant's counsel. The Appellant is [REDACTED] years old ([REDACTED]) and resides in a licensed boarding home. (Exhibit 1: Application)
2. On [REDACTED] 2021, the Department issued a notice of action to the Appellant denying his request for AABD due to having a gross income more than the program limit. (Exhibit 2: Notice)
3. The Appellant's monthly Social Security Income ("SSA") for 2021 is \$2,401.30. (Exhibit 3: SSA printout; Counsel's testimony)
4. The maximum monthly Supplemental Security Income ("SSI") benefit for 2021 is \$794.00 and 300% of \$794.00 equals \$2,382.00. (Record)
5. The issuance of this decision is timely under Connecticut General Statutes 17b-61(a), ("Conn. Gen. Stat.") which requires a decision to be rendered within 90 days of the request for an administrative hearing. The Appellant's counsel requested an administrative hearing on [REDACTED] 2022, with this decision due no later than [REDACTED] 2022. (Record)

CONCLUSIONS OF LAW

1. Conn. Gen. Stat. § 17b-601 provides the Commissioner of Social Services shall adopt regulations in accordance with the provisions of chapter 54 establishing the method by which payments are made for recipients of the state supplement program who are residents of licensed residential care homes, as defined in section 19a-490, and a rated housing facility, as defined in section 17b-82. Such regulations shall provide for the safeguarding of residents' personal funds with respect to any homes, or rated housing facilities that handle such funds. Regulations concerning payment for residents shall provide for payment to the licensed residential care home or rated housing facility for the period during which the recipient makes such home or facility his or her residence, without regard to periods during which the recipient is absent, provided (1) the recipient's bed at the home or facility would otherwise be available during such absence, and (2) the recipient can reasonably be expected to return to the home or facility before the end of the month following the month in which the recipient leaves the home or facility. If the department determines that a resident of a home or rated housing facility who applies for state supplement benefits is eligible for

such benefits, the department shall pay the home or facility at a per diem or monthly rate less any applied income due from the resident. Any retroactive adjustment to the rate of such a home or facility by the commissioner that results in money due to such home or facility shall be made to such home or facility directly, and any such adjustment that results in an overpayment to the home or facility shall be paid by the home or facility to the department. If a retroactive adjustment to the rate of such home or facility results in a current resident becoming eligible for state supplement benefits, and such resident applies for state supplement benefits, the department may determine the start date of eligibility for state supplement benefits to be the later of the resident's admission date or the date ninety days prior to the date the department receives the application.

Regulations of Connecticut State Agencies § 17b-198-2 defines AABD as the state supplement to the aged, blind, or disabled administered pursuant to section 17b-600 of the Connecticut General Statutes.

The Department has the authority to administer and determine eligibility for the AABD program under the provisions outlined in state statute and regulation.

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. Conn. Gen. Stat. § 17b-82 provides "Rated Housing Facility" means (1) a boarding facility or home, except for a community companion home, licensed by the Department of Developmental Services, the Department of Mental Health and Addiction Services or the Department of Children and Families.

Conn Gen. Stat. § 19a-490 (a) provides in relevant part "Institution" means a hospital, short-term hospital special hospice, hospice inpatient facility, residential care home or nursing home facility.

Conn. Gen. Stat. § 19a-490 (c) provides "residential care home" or "rest home" means a community residence that furnishes, in single or multiple facilities, food and shelter to two or more persons unrelated to the proprietor and, in addition, provides services that meet a need beyond the basic provisions of food, shelter and laundry and may qualify as a setting that allows residents to receive home and community-based services funded by state and federal programs.

The Department correctly determined the Appellant is a resident of a residential care home also referred to as a licensed boarding home.

4. UPM § 5050.13(A)(1) provides that Social Security Income is treated as unearned income in all programs.

The Department correctly determined that the Appellant's gross SSA is \$2,401.30 per month.

5. UPM § 2015.05 (A) provides that the assistance unit in AABD and MAABD consists of only one member. In these programs, each individual is a separate assistance unit. (B) An eligible spouse in the home applies for and receives assistance as a separate assistance unit. (C) Any other member of the household who meets the eligibility requirements for the program is also a separate assistance unit of one.

UPM § 5515.05(B)(1) provides that the needs group for an applicant or recipient under the AABD program includes the following: a. the applicant or recipient; and b. the spouse of the applicant or recipient: (1) when they share the same home regardless of whether one or both are applying for or receiving assistance; and (2) through the end of the month of separation, should one occur.

The Department correctly determined the Appellant is an assistance unit of one.

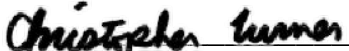
6. UPM § 5520.10 provides in relevant part that income eligibility for AABD is determined by subjecting a monthly income amount to a gross income test.

UPM § 5520.10 (A) provides for the gross income eligibility test. 1. If the needs group comprises only the individual applicant or recipient, the assistance unit's total gross monthly income is compared to the gross monthly income limit of 300% of the maximum SSI benefit for an individual who has no income and lives in his or her own home. 3. If the amount of the gross income exceeds the limit used, there is no eligibility for the individual or for either member of the couple for whom eligibility is being determined.

The Department correctly determined the Appellant's gross income of \$2,401.30 exceeded the program limit of \$2,382.00 and is therefore ineligible for AABD.

DECISION

The Appellant's appeal is denied.


Christopher Turner
Hearing Officer

Cc: Rachel Anderson, Operations Manager New Haven
Mathew Kalarickal, Operations Manager New Haven
Lisa Wells, Operations Manager New Haven
Ni'ta Freeman, DSS 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, law, and 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 the 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 the 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 if 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 06105-3725. A copy of the petition must also be served to 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 her designee following §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.