

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

██████ 2022
Signature Confirmation

Client ID ██████████
Case ID ██████████
Request # 196676

NOTICE OF DECISION

PARTY

██████████
██████████
████████████████████

PROCEDURAL BACKGROUND

On ██████ ██████ 2022, the Department of Social Services (the “Department”) sent ██████████ ██████████ (the “Appellant”) a Notice of Action (“NOA) granting Medicaid under the Husky C-Medically Needy for Aged, Blind, and Disabled Spenddown Program (“MAABD Spenddown Program”) with a spenddown amount of \$1,773.00 for a six month period beginning ██████ ██████ 2022 and ending ██████████ ██████ 2022.

On ██████ ██████ 2022, the Appellant requested an administrative hearing to contest the Department’s calculation of the spenddown amount.

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, 17-61 and 4-176e to 4-189 inclusive of the Connecticut General Statutes, OLCRAH held an administrative hearing.

The following individuals were present at the hearing:

██████████ ██████████ Appellant
██████████ ██████████ Appellant’s Spouse
Taneisha Hayes, Department’s Representative
Lisa Nyren, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department calculated the Appellant's spenddown amount under the MAABD Spenddown Program as \$1,773.00 for the six month period [REDACTED] [REDACTED] 2022 through [REDACTED] [REDACTED] 2022 correctly.

FINDINGS OF FACT

1. The Appellant is married to [REDACTED] [REDACTED] ("Spouse"). (Stipulated)
2. The Appellant and the Spouse live together in [REDACTED] [REDACTED] Connecticut. (Exhibit 1: W-1E Application and Spouse's Testimony)
3. The Appellant is age [REDACTED]-[REDACTED] ([REDACTED] born on [REDACTED] [REDACTED] and retired. (Exhibit 1: W-1E Application and Spouse's Testimony)
4. The Spouse is age [REDACTED]-[REDACTED] ([REDACTED] born on [REDACTED] [REDACTED] and retired. (Exhibit 1: W-1E Application and Spouse's Testimony)
5. The Appellant receives Social Security Retirement ("SSA") benefits of \$628.00 per month. (Exhibit 1: W-1E Application and Spouse's Testimony)
6. The Spouse receives SSA benefits of \$927.00 per month. (Exhibit 1: W-1E Application and Spouse's Testimony)
7. On [REDACTED] [REDACTED] 2022, the Department received an application from the Appellant requesting continued medical and food stamp assistance. The application is void of any out of pocket medical expenses incurred by the Appellant or the Spouse. (Exhibit 1: W-1E Application and Spouse's Testimony)
8. The Appellant receives medical coverage under Medicare Part A, Medicare Part B, and Medicare Part D prescription coverage from the Social Security Administration since 2013. (Exhibit 1: W-1E Application and Spouse's Testimony)
9. The Department pays the Appellant's monthly Medicare Part B premiums, co-pays, and deductibles under the Medicare Savings Program Qualified Medicare Beneficiaries program as of [REDACTED] [REDACTED] 2021. (Department Representative's Testimony and Exhibit 2: Notice of Action)
10. The medically needy income limit ("MNIL") under the MAABD Spenddown Program is \$708.00 per month. (Exhibit 4: MAABD – Income Test and Department Representative's Testimony)

11. The Department determined the household's monthly gross income as \$1,555.00. \$628.00 Appellant SSA + \$927.00 Spouse SSA = \$1,555.00 gross household income per month. (Exhibit 4: MAABD – Income Test and Department Representative's Testimony)
12. The Department determined the unearned income disregard for a married couple as \$409.00 under the MAABD Spenddown Program. (Exhibit 4: MAABD – Income Test and Department Representative's Testimony)
13. The Department determined the household's total countable income as \$1,146.00 per month under the MAABD Spenddown Program. \$1,555.00 gross household income - \$409.00 unearned income disregard = \$1,146.00 total countable income. (Exhibit 4: MAABD – Income Test)
14. On [REDACTED] [REDACTED] 2022, the Department determined the Appellant eligible for medical benefits under the MAABD Spenddown Program for the six month period [REDACTED] [REDACTED] 2022 through [REDACTED] [REDACTED] 2022 because the household's monthly net income of \$1,146.00 exceeds the MAABD monthly income limit of \$708.00. (Exhibit 2: Notice of Action, Exhibit 4: MAABD – Income Test, and Department Representative's Testimony)
15. The Department determined the household's monthly excess income under the MAABD Spenddown Program as \$438.00 resulting in a 6-month spenddown totaling \$1,773.00. (Exhibit 4: MAABD – Income Test and Department Representative's Testimony)
16. On [REDACTED] [REDACTED] 2022, the Department issued the Appellant a Notice of Action informing him he was approved for medical coverage under the Husky C – Medically Needy Aged, Blind, Disabled – Spend-down program beginning [REDACTED] [REDACTED] 2022 because his income is “too high for ACTIVE medical coverage.” The notice listed the spend-down amount as \$1,773.00 and the spend-down period as [REDACTED] [REDACTED] 2022 through [REDACTED] [REDACTED] 2022. (Exhibit 2: Notice of Action)
17. On [REDACTED] [REDACTED] 2022, the Department issued the Appellant a Spend-down Welcome Packet explaining the spend-down rules. The notice confirmed the spend-down amount as \$1,773.00 for the spend-down period of [REDACTED] [REDACTED] 2022 through [REDACTED] [REDACTED] 2022. The notice states, “Medical coverage for the individual(s) will become active (no longer in a spend-down) when the individual(s) shows DSS proof of acceptable medical expenses, not covered by Medicare or other insurance, for the total amount of the spend-down.” (Exhibit 3: Spend-down Welcome Packet)

18. The Appellant incurs out of pocket medical costs which differ each month. In [REDACTED] 2022, the out of pocket medical costs incurred equaled \$62.12. (Spouse's Testimony)
19. The Department has not received proof of out of pocket medical expenses incurred by the Appellant or the Spouse. (Hearing Record)
20. The Appellant seeks medical coverage to pay out of pocket medical costs not covered by insurance and medical coverage for medical appointments and medical goods not covered under Medicare, such as optometry. The Appellant does not agree with the new spenddown amount determined by the Department. (Spouse's Testimony)
21. 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] [REDACTED] 2022. Therefore, this decision is due not later than [REDACTED] [REDACTED] 2022.

CONCLUSIONS OF LAW

1. Section 17b-2(6) 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 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. Section 2525.05(A) of the Uniform Policy Manual ("UPM") provides as follows:

The determination of whether an individual meets the age requirements of the individual program is made in accordance with the "popular usage method" under which a specific age is attained on the anniversary of the individual's birth.

"To meet the age requirement for State Supplement and related Medicaid based on old age, the individual must be sixty-five (65) of age or older." UPM 2525.15(B)

The Department correctly determined the Appellant meets the age criteria under the MAABD program because the Appellant is age ■■■

4. "When the assistance unit's applied income exceeds the CNIL, the assistance unit is ineligible to receive Medicaid as a categorically needy case." UPM § 5520.25(A)

"Those assistance units which are determined ineligible as categorically needy cases have their eligibility determined as medically needy." UPM § 5520.25(A)(2)

Department policy provides as follows:

Medically Needy Aged, Blind and Disabled. This group includes individuals who:

1. Meet the MAABD categorical eligibility requirements of age, blindness, or disability; and
2. Are not eligible as categorically needy; and
3. Meet the medically needy income and asset criteria.

UPM § 2540.96(A)

5. "The assistance unit in AABD and MAABD consists of only one member. In these programs, each individual is a separate assistance unit." UPM § 2015.05(A)

The Department correctly determined as assistance unit of one, the Appellant.

6. Department policy provides as follows:

The needs group for an MAABD unit includes the following:

- a. The applicant or recipient; and
- b. The spouse of the applicant or recipient when they share the same home regardless of whether one or both are applying for or receiving assistance, except in cases involving working individuals with disabilities. In these cases, the spouse (and children) are part of the needs group only in determining the cost of the individual's premium for medical coverage (Cross Reference: 2540.85).

UPM § 5515.05(C)(2)

“A spouse who is considered to be living with an assistance unit member is a member of the needs group when determining the assistant unit’s eligibility.” UPM § 5020.75(A)(3)

The Department correctly determined a needs group of two: the Appellant and the Spouse.

7. Department policy provides as follows:

The Department uses the MAABD medically needy income and asset criteria to determine eligibility under this coverage group, including:

1. Medically needy deeming rules;
2. The Medically Needy Income Limit (“MNIL”);
3. The income spend-down process;
4. The medically needy asset limits.

UPM § 2540.96(C)

“The income limit used to determine Medicaid eligibility is the limit for the number of persons in the needs group.” UPM § 5515.10(C)

8. “A uniform set of income standards is established for all assistance units who do not qualify as categorically needy.” UPM § 4530.15(A)(1)

Department policy provides as follows:

The MNIL of an assistance unit varies according to:

- a. the size of the assistance unit; and
- b. the region of the state in which the assistance unit resides.

UPM § 4530.15(A)(2)

“The regional breakdown of the state by cities and towns is as follows:

Region B, █████ █████ UPM § 4510.10(B)

The Department correctly determined the Appellant resides in Region B.

“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 the MNIL as \$708.00 for [REDACTED] 2022 for a needs group of two. 143% of \$495.00 TFA payment standard for a household of two under Region B = 707.85.

9. Section 236(a) of House Bill No. 5506 Public Act 22-118 provides in pertinent part as follows:

Section 17b-104 of the 2022 supplement to the general statutes is repealed and the following is substituted in lieu of thereof (*Effective July 1, 2022*): The Commissioner of Social Services shall administer the program of state supplementation to the Supplemental Security Income Program provided for by the Social Security Act and state law. The commissioner may delegate any powers and authority to any deputy, assistant, investigator or supervisor, who shall have, within the scope of the power and authority so delegated, all of the power and authority of the Commissioner of Social Services. The [commissioner shall establish a standard of need based on the cost of living in this state] standard of need for the temporary family assistance program [and the state administered general assistance program] shall be fifty-five per cent of the federal poverty level.

The Department of Health and Human Services 2022 Annual Poverty Guidelines for the 48 Contiguous States and the District of Columbia for a household of two equals \$18,310.00. [Federal Register/Vol. 87, No. 14/Friday, January 21, 2022/Notices, pp 3315-3316]

Section 236(c) of House Bill No. 5506, Public Act 22-118 provides as follows:

On and after July 1, [1995] 2022, the payment standards for families receiving assistance under the temporary family assistance program shall be equal to seventy-three per cent of the [AFDC] standards of need [in effect June 30, 1995] established for said program under subsection (a) of this section.

The Department correctly determined the MNIL as \$879.00 beginning [REDACTED] 2022 for a needs group of two due to increases in the TFA standard of need under Public Act 22-118. Reference calculations below.

\$18,310.00 Annual Federal Poverty Limit (“FPL”) for a household of 2 / 12 months = \$1,525.83 or \$1,526.00 monthly FPL

55% of \$1,526 Monthly FPL = \$839.3 or \$840 TFA Standard of Need (“SON”) for a needs group of two.

73% of \$840.00 TFA SON = \$613.20 or \$614.00 TFA Payment Standard for a needs group of two.

143% of \$614.00 TFA Payment Standard = \$878.02 or \$879.00 MNIL for a needs group of two.

10. "Income from Social Security is treated as unearned income in all programs." UPM § 5050.13(A)(1)

"If income is received on a monthly basis, a representative monthly amount is used as the estimate of income." UPM § 5025.05(B)(1)

The Department correctly determined the Appellant's SSA benefit as \$628.00 per month.

11. "Social Security income is subject to an unearned income disregard in the AABD and MAABD programs." UPM § 5050.13(A)(2)

"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)

"All of the disregards used in the AABD programs are used to determine eligibility for MAABD." UPM § 5030.15(C)(2)(a)

Department policy provides as follows:

The Department uses the following unearned income disregards, as appropriate under the circumstances described: The disregard is [\$409.00 effective 1/1/22] 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.

UPM § 5030.15(B)(1)(a)

The Department correctly determined the unearned income disregard as \$409.00.

"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." UPM § 5045.10(C)(1)

The Department correctly determined the Appellant's applied unearned income as \$219.00. \$628.00 Appellant's SSA - \$409.00 unearned income disregard = \$219.00.

12. Department policy provides as follows:

The Department deems income from: the spouse of an MAABD applicant or recipient if he or she is considered to be living with the assistance unit member, except in cases involving working individuals with disabilities. In these cases, spousal income is deemed only in determining the cost of the individual's premium for medical coverage (Cross Reference: 2540.85).

UPM § 5020.75(A)(1)(a)

"Deemed income is calculated from parents and from spouses in the same way as in AABD for members of the following coverage groups: Medically Needy Aged, Blind, and Disabled." UPM § 5020.75(C)

"In calculating the amount of deemed income, the income of the deemor is counted in full, except for those reductions specifically described in this chapter." UPM § 5020.05(A)

Department policy provides in pertinent part as follows:

When the spouse has not applied for AABD or has applied and has been determined to be ineligible for benefits, the amount deemed to the unit from the unit member's spouse is calculated in the following manner: (c) the total applied earned income of the deemor is added to his or her total monthly gross unearned income; (d) the combined total of the deemor's gross unearned income and applied earned income after the appropriate deductions are made is deemed available to the assistance unit member.

UPM § 5020.70(C)(3)

The Department correctly determined the Spouse as a Deemor.

The Department correctly determined the amount of income deemed from the Spouse to the Appellant equals \$927.00. Spouse's gross SSA \$927.00 + \$00.00 Spouse's applied earned income = \$927.00.

13. "The assistance unit's total applied income is the sum of the unit's applied earnings, applied unearned income, and the amount deemed." UPM § 5045.10(E)

The Department correctly calculated the assistance unit's total applied income as \$1,146.00 per month. \$219.00 Appellant's applied unearned income + \$00.00 applied earnings + \$927.00 Spouse's deemed income = \$1,146.00.

14. Department policy provides as follows:

The following method is used to determine the assistance unit's eligibility in the prospective period:

1. 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.
2. The needs group which is expected to exist in each of the six months is established.
3. An MNIL is determined for each of six months is determined on the basis of:
 - a. The anticipated place of residency of the assistance unit in each of the six months; and
 - b. The anticipated composition of the needs group for each of the same six months.
4. The assistance unit's applied income is estimated for each of the six months.
5. 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:
 - a. When the unit's total applied income equals or is less than the total MNIL's the assistance unit is eligible;
 - b. When the unit's total applied income, is greater than the total MNIL's the assistance unit is ineligible until the excess income is offset through the spend-down process.

UPM § 5520.20(B)

“When the amount of 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.” UPM § 5520.25(B)

The Department correctly determined the spenddown period begins [REDACTED] 2022, the month of application ending [REDACTED] 2022, five consecutive calendar months following the month of application.

The Department correctly determined the six (6) months MNIL equals \$5,103.00 for the spenddown period [REDACTED] 2022 through [REDACTED] 2022. [REDACTED] 2022 MNIL equals \$708.00. [REDACTED] 2022 through [REDACTED] 2022 MNIL equals \$879.00 each month or \$4,395.00 for

5-months. $\$708.00 + \$4,395.00 = \$5,103.00$ MNIL for █████ 2022 through █████ 2022.

The Department correctly determined the six month total applied income for the period █████ 2022 through █████ 2022 equals \$6,876.00. $\$1,146.00$ Appellant's applied income x 6 months █████ 2022 through █████ 2022 = \$6,876.00

The Department correctly calculated the Appellant's 6-month spenddown as \$1,773.00. $\$6,876.00$ Applied Income - $\$5,103.00$ MNIL = \$1,773.00.

The Department correctly determined the Appellant must meet a spenddown of \$1,773.00 to become eligible for medical benefits under the MAABD Spenddown Program.

DECISION

The Appellant's appeal is denied.

DISCUSSION

The Department correctly determined the Appellant is subject to a spenddown totaling \$1,773.00 under the MAABD Spenddown Program. This means the Appellant is liable for medical expenses totaling \$1,773.00 during the period █████ 2022 through █████ 2022 before Medicaid pays for any medical services and/or expenses during this six month period. At the administrative hearing, the Spouse reported out of pocket medical expenses incurred in █████ as \$62.12, however such expenses remain insufficient to offset the excess income at this time. The Appellant may submit proof of out of pocket medical expenses to the Department to continue to offset the 6-month spenddown of \$1,773.00.

Lisa A. Nyren

Lisa A. Nyren
Fair Hearing Officer

CC: Josephine Savastra, SSOM RO #10
Taneisha Hayes, FHL RO #10

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.