

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

██████████ 2023  
Signature confirmation

Case: ██████████  
Client: ██████████  
Request: ██████████

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2023, the Department of Social Services (the “Department”) issued a *Spend-down Welcome Packet* to ██████████ (the “Appellant”) instructing her to meet a \$48.00 spend-down amount in order to receive HUSKY-C/Medicaid coverage from ██████████ 2023 through ██████████ 2024.

On ██████████ 2023, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) received the Appellant’s faxed hearing request.

On ██████████ 2023, the OLCRAH scheduled an administrative hearing for ██████████ 2023.

On ██████████ 2023, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, the OLCRAH held an administrative hearing by telephone and videoconferencing. The following individuals participated:

██████████, Appellant  
Carmen Ferrer, Department Representative (by telephone)  
James Housey, Department Observer  
Eva Tar, Hearing Officer

The hearing record closed ██████████ 2023.

## STATEMENT OF ISSUE

The issue is whether the Department correctly determined that the Appellant must meet a spend-down to receive HUSKY-C/Medicaid coverage.

## FINDINGS OF FACT

1. The Appellant is unmarried and lives alone. (Appellant Testimony)
2. The Appellant grosses \$1,190.00 per month in Social Security disability benefits. (Appellant Testimony) (Dept. Exhibit 10)
3. The Appellant's sole source of income is her Social Security disability benefits. (Appellant Testimony)
4. The Appellant has Medicare A and B coverage. (Appellant Testimony)
5. The Department's Medicare Savings Program pays the Appellant's Medicare B premiums. (Department Representative Testimony)
6. The Appellant does not have private insurance. (Appellant Testimony)
7. On [REDACTED] 2023, the Department issued the Appellant a *Spend-down Welcome Packet* that asked the Appellant to submit \$48.00 in medical bills to meet her spend-down to be eligible for HUSKY-C/Medicaid coverage from [REDACTED] 2023 through [REDACTED] 2024. (Dept. Exhibit 22)
8. The Appellant agrees with the correctness of the Department's figures and understands the spend-down process. (Appellant Testimony)
9. On [REDACTED], 2023, the Appellant received eyecare services from [REDACTED], [REDACTED] for which she paid \$50.00 of the \$100.00 fee charged. (Dept. Exhibit 6)
10. As of [REDACTED], 2023, the Appellant continued to owe \$50.00 for the eyecare services. (Dept. Exhibit 6)
11. On [REDACTED], 2023, the Department received the Appellant's invoice for the [REDACTED] 2023 service. (Dept. Exhibit 6)
12. The Department entered the Appellant's \$50.00 bill toward the Appellant's spend-down for a [REDACTED] 2023 service date. (Department Representative Testimony)
13. The Department activated the Appellant's HUSKY-C/Medicaid coverage effective [REDACTED] 2023. (Department Representative Testimony)

14. The Department erred when it entered the Appellant's \$50.00 bill with a service date of [REDACTED], 2023; based on the [REDACTED] 2023 date of service, the \$50.00 bill should have been used to offset the Appellant's spend-down effective [REDACTED] 2023. (Department Representative Testimony)
15. The Appellant is concerned about payment for medical bills that she incurred on [REDACTED] 2023 through [REDACTED] 2023, when she had a gap in HUSKY-C/Medicaid coverage. (Appellant Testimony)
16. The Department agrees to update its database to incorporate the \$50.00 unpaid medical bill to activate the Appellant's HUSKY-C/Medicaid coverage effective [REDACTED] 2023. (Stipulated)
17. The Appellant agrees that the matter is resolved should the Department activate her HUSKY-C/Medicaid coverage effective [REDACTED] 2023. (Stipulated)
18. Connecticut General Statutes § 17b-61 (a) provides: "The Commissioner of Social Services or the commissioner's designated hearing officer shall ordinarily render a final decision not later than ninety days after the date the commissioner receives a request for a fair hearing pursuant to section 17b-60, ...."

On [REDACTED] 2023, the OLCRAH received the Appellant's faxed hearing request. This hearing decision would have become due by no later than [REDACTED] 2023. This final decision is timely.

### CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes in part designates the Department as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.

"The Department of Social Services shall be the sole agency to determine eligibility for assistance and services under programs operated and administered by said department." Conn. Gen. Stat. § 17b-261b (a).

"The Commissioner of Social Services may make such regulations as are necessary to administer the medical assistance program...." Conn. Gen. Stat. § 17b-262.

"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)).

**The Department has the authority to administer the HUSKY-C/Medicaid program in Connecticut.**

2. Section 5515.05 C.2. of the Department's Uniform Policy Manual ("UPM") provides: "The needs group for a Medicaid unit for individuals who are aged, blind, or disabled 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."

**With respect to the HUSKY-C/Medicaid program, the Appellant is a needs group of one.**

3. "In consideration of income, the Department counts the assistance unit's available income, except to the extent that it is specifically excluded. Income is considered available if it is: 1. received directly by the assistance unit; or 2. received by someone else on behalf of the assistance unit and the unit fails to prove that it is inaccessible; or 3. deemed by the Department to benefit the assistance unit." UPM § 5005 A.

"Social Security and Veterans' Benefits: Income from these sources is treated as unearned income in all programs. This income is subject to unearned income disregards in the AABD and MAABD programs." UPM § 5050.13 A.1. and A.2.

**For the purposes of the HUSKY-C/Medicaid program, the Appellant's gross monthly Social Security disability benefits are counted, unearned income.**

4. "The Department uses the assistance unit's applied income to determine income eligibility and to calculate the amount of benefits." UPM § 5005 D.

"The Department computes applied income by subtracting certain disregards and deductions, as described in this section, from counted income." UPM § 5005 C.

"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.

"Standard Disregard: The disregard is \$227.00 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 1<sup>st</sup> 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.

**For the purposes of the HUSKY-C/Medicaid program, the Appellant's monthly applied income was \$708.00. [\$1,190.00 minus \$482.00 (standard disregard)]**

5. "A uniform set of income standards is established for all assistance units who do not qualify as categorically needy." UPM § 4530.15 A.1.

"The Medically Needy Income Limit ("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 MNIL is the amount equivalent to 143 percent of the benefit amount that ordinarily would be paid under the TFA [Temporary Family Assistance] program to an assistance unit of the same size with no income for the appropriate region of residence." UPM § 4530.15 B.

The TFA benefit for a household of one is \$489.00.

The MNIL for an individual, or a needs group of one, equals \$700.00. [\$489.00 multiplied by 143 percent; rounded to nearest dollar]

**The Appellant's monthly applied income exceeds the MNIL by \$8.00. [\$708.00 (monthly applied income); minus \$700.00 (MNIL)]**

6. "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." UPM § 5520.25 B.

**The Department correctly determined that the Appellant must meet a spend-down in order to receive HUSKY-C/Medicaid coverage.**

7. "Income eligibility for the assistance unit exists as of the day when excess income is totally offset by medical expenses: a. Any portion of medical expenses used to offset the excess income are the responsibility of the unit to pay. b. Medical expenses which are recognized as payable under the State's plan and which are remained unpaid at the time eligibility begins are paid by the Department provided the expenses were not used to offset income." UPM § 5520.25 B.7.

"The total amount of excess income for the entire six-month prospective period is offset by: a. medical expenses occurring prior to the prospective period in accordance with guidelines set forth in 5520.25; and b. paid or unpaid medical expenses occurring in the prospective period in chronological order." UPM § 5520.30 B.1.

**The Appellant's spend-down for the six-month period of [REDACTED] 2023 through [REDACTED] 2024 equals \$48.00. [\$8.00 multiplied by six months]**

**As a condition of HUSKY-C/Medicaid eligibility, the Appellant must offset her \$48.00 spend-down with medical expenses recognizable by the State's plan.**

8. Section 5520.25 B.1. of the Uniform Policy Manual provides:
- 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.

UPM § 5520.25 B.1.

**The Appellant's unpaid \$50.00 eyecare services bill meets the criteria of UPM § 5520.25 B.1.**

**Section 5520.25 B.1. of the Uniform Policy Manual permits the Department to use the \$50.00 eyecare services bill to offsetting the Appellant's \$48.00 spend-down for the six-month period of [REDACTED] 2023 through [REDACTED] 2024.**

9. Section 5520.25 B.7. of the Uniform Policy Manual provides:
- Income eligibility for the assistance unit exists as of the day when excess income is totally offset by medical expenses:
- a. Any portion of medical expenses used to offset the excess income are the responsibility of the unit to pay.
  - b. Medical expenses which are recognized as payable under the State's plan and which are remained unpaid at the time eligibility begins are paid by the Department provided the expenses were not used to offset income.

UPM § 5520.25 B.7.

“When the excess income is offset by medical expenses before the expiration of the prospective period, the assistance unit is eligible for the remaining balance of the six months.” UPM § 5520.30 B.2.

“When the actions of the parties themselves cause a settling of their differences, a case becomes moot.” *McDonnell v. Maher*, 3 Conn. App. 336 (Conn. App. 1985), citing, *Heitmuller v. Stokes*, 256 U.S. 359, 362-3, 41 S.Ct. 522, 523-24, 65 L.Ed. 990 (1921).

The Department agreed to correct its data entry error that had denied the Appellant coverage under HUSKY-C/Medicaid from [REDACTED] 2023 through [REDACTED] 2023, granting the Appellant coverage effective [REDACTED] 2023.

DECISION

The Appellant's appeal is **DISMISSED as moot**.

As agreed at the [REDACTED] 2023 hearing, the Department will correct its data entry error and grant the Appellant HUSKY-C/Medicaid coverage effective [REDACTED] 2023.

*Eva Tar-electronic signature*  
Eva Tar  
Hearing Officer

cc: Carmen Ferrer, DSS-Stamford  
Shahar Thadal, DSS-Stamford

### **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 Legal Counsel, Regulations, and Administrative Hearings, 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 his 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.