

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

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

Case # ██████████  
Client # ██████████  
Request # 180423

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2021, the Department of Social Services (the “Department”) sent ██████████ (the “Appellant”), a Notice of Action (“NOA”) granting cash benefits under the State Supplement Aid to the Aged, Blind, and Disabled Program (“AABD”) effective ██████████ 2021.

On ██████████ 2021, ██████████ the authorized representative (“the AREP”), requested an administrative hearing to contest the Department’s action.

On ██████████ 2021, the Office of Legal Counsel, Regulations, and Administrative Hearings, (“OLCRAH”) sent a notice scheduling the administrative hearing for ██████████, 2021.

On ██████████ 2021, at the Appellant’s request, OLCRAH sent another notice rescheduling the administrative hearing for ██████████ 2021.

On ██████████ 2021, at the Appellant’s request OLCRAH sent another notice rescheduling the administrative hearing for ██████████ 2021. The Hearing was scheduled to be held telephonically due to the COVID-19 pandemic.

On [REDACTED] 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. The following individuals participated in the hearing:

[REDACTED] Authorized Representative, Assistant Administrator, [REDACTED]  
Joan Counsell, Department's Representative  
Swati Sehgal, Hearing Officer

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether the Department correctly calculated the Appellant's AABD benefits.

### **FINDINGS OF FACT**

1. On [REDACTED] 2021, the Appellant entered the [REDACTED] (the "Boarding Home"). (Exhibit 3: W-265, Hearing Summary)
2. On [REDACTED] 2021, the Department received an application, W-1LTC and W-265, Report of Admission or Discharge Form from the Boarding Home. (Exhibit 2: W-1LTC, [REDACTED]/21; Exhibit 3: W-265, Hearing Summary)
3. The Appellant receives \$866.00 monthly in Supplemental Security Disability Income ("SSDI"). (Exhibit 7: Notice of Action, [REDACTED]/21, Department's Testimony)
4. The Boarding Home charges the Appellant \$129.86 a day. (Department's Testimony; Exhibit 6: Email Correspondence)
5. On [REDACTED] 2021, the Department processed the Appellant's application. The Department erroneously granted cash assistance under State Supplement effective [REDACTED] 2021, However the Department did make the correction and granted the benefits as of the application date, [REDACTED] 2021. (Hearing Summary)
6. On [REDACTED] 2021, The Department informed the Boarding Home that it has approved \$1992 for the month of [REDACTED] 2021. The amount is for [REDACTED] 2021, through [REDACTED] 2021. (Exhibit 6; Department's Testimony)

### **CONCLUSIONS OF LAW**

1. Section 17b-2 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the Aid to the Aged, Blind, and Disabled (AABD) State Supplement 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 Income Maintenance*, 214 Conn. 601, 573 A.2d 712 (1990)).
3. UPM § 0500 states that a licensed boarding facility is a community group home, training home, family care home, private boarding home or other residential facility licensed by the State Department of Mental Retardation, Department of Children and Youth Services, Department of Mental Health, Department of Health or other state agency, which at a minimum provides lodging and meals to various groups of elderly, blind or disabled individuals.
4. UPM § 0500 states that long term care facility is a skilled nursing facility, intermediate care facility, or other medical institution, where the applicant is required, as a condition of receiving services in such institution under the state medical assistance plan, to spend for costs of medical care all but a minimal amount of any existing income for personal needs.
5. Scofield Manor is a state licensed boarding facility.
6. Uniform Policy Manual (UPM) § 4520.05 (A) provides that the basic needs of AABD assistance units consist of the consolidated personal needs standard and a shelter standard for permanent housing.
7. UPM § 4520.10(A) (1) provides that individuals living in the following types of housing are classified as residing in rated housing: (a) licensed boarding facilities; (b) New Horizons; and (c) adult family living homes approved by the Department.
8. UPM § 4520.10(A)(2) provides that licensed boarding facilities include all of the following: (a) private homes licensed by the Department of Mental retardation (DMR) or the Department of Mental Health (DMH); (b) homes for the aged licensed by the Department of Health Services(DHS); (c) permanent family homes licensed by the department of Children and Youth Services (DCYS); (d) other room and board facilities that are: licensed by an appropriate department of state and approved for payment by the Department.

9. UPM § 4520.10 (A)(3) provides that individuals residing in any of the above licensed boarding facilities, adult family living homes, or New Horizons are considered to be residing in a rated housing facility.

**The Department correctly determined that the Appellant lives in rated housing facility.**

10. UPM § 4520.10 (C) (1) (d) provides for Basic Needs for Rated Housing Facilities and states that assistance units are temporarily absent from the facility or adult family living home are considered to be maintaining permanent residence if both of the following conditions are met: (1) the unit does not enter into another permanent housing agreement during the period of absence; and (2) the unit is expected to return to the residence within a reasonable period of time, as defined by the Department.
11. UPM § 4520.10(C)(1) (e) provides that the period of absence is considered to be reasonable if the unit is expected to return to the residence by the last day of the month following the month that the unit temporarily left the residence. The standard of need for shelter for assistance units residing in a licensed boarding facility or in an adult family living home is based on a monthly rate established by the Department.
- a. Assistance units are considered to be maintaining residence in the facility or adult family living home if they are not maintaining a separate residence in the community.
  - b. The monthly need standard is prorated on a per diem basis in any month that the assistance unit does not maintain residence in the facility or adult family living home for the entire calendar month.
12. UPM § 4520.10(C)(1)(g) provides that the standard of assistance for shelter in a rated housing facility is (1) the monthly facility rate if the assistance unit resides in the facility for entire calendar month; or (2) the per diem facility rate times the number of days the unit resided in the facility if the shelter rate is prorated.

**The Department correctly determined that the Appellant resides in rated Housing facility.**

**The Department correctly determined that the Appellant resided in rated Housing facility for 19 days in [REDACTED] 2021 (from [REDACTED]/21-[REDACTED]/21).**

**The Department correctly determined that the Appellant's monthly basic needs equal \$2497.00 [\$30.36, personal needs standard + 2467.34, shelter obligation (129.86X19 days from [REDACTED]/21-[REDACTED]/21) in [REDACTED] 2021.**

13. UPM § 5005 provides for consideration of income and states:

- A. 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.
- B. The Department does not count income which it considers to be inaccessible to the assistance unit.
- C. The Department computes applied income by subtracting certain disregards and deductions, as described in this section, from counted income.
- D. The Department uses the assistance unit's applied income to determine income eligibility and to calculate the amount of benefit.

**The Department correctly determined that the Appellant's monthly gross income equals \$866.00.**

- 14. UPM § 5030.15(B)(1)(b) provides for the boarding home disregard and states that the disregard is \$134.70 for those individuals who pay for room and board in licensed boarding homes or adult family living homes. Effective January 1, 2008, and each January 1<sup>st</sup> and thereafter, this disregard shall be increased to reflect the annual cost of living adjustment used by the Social Security Administration.
- 15. The boarding home disregard equals \$269.70 per month as of [REDACTED] 2021.
- 16. UPM § 5045.10(E) provides that the assistance unit's total applied income is the sum of the unit's applied earnings, applied unearned income, and the amount deemed.

**The Department incorrectly allowed \$362.00 in unearned income disregard and calculated that the Appellant's applied monthly income equals \$504.00 (\$866.00, gross unearned income - \$362.00, unearned income disregard = \$504).**

- 17. UPM §5520.10(B)(1) provides that if the needs group comprises only the individual applicant or recipient, the assistance unit's total applied income is compared to the total needs of the individual.
- 18. UPM § 6020.10(c) provides that the monthly benefit payment is always rounded down to a whole dollar for all programs.
- 19. UPM § 6005 (B)(1) provides that when the Department considers the AABD unit member not to be living with his or her spouse, the unit's benefits are determined by subtracting his or her applied income from the unit's total needs.
- 20. UPM § 6020.10(c) provides that the monthly benefit payment is always rounded down to a whole dollar for all programs.

**The Department correctly determined that the Appellant's \$2496.00 monthly need exceeds his monthly applied income.**

On [REDACTED] 2021, the Department incorrectly determined that the Appellant is eligible for \$1992 (2496.00 monthly need – 504.00 Applied income) in AABD for [REDACTED] 2021.

### DISCUSSION

The Department correctly granted the Appellant's application for AABD effective [REDACTED], 2021; however, the amount is incorrect due to using incorrect disregard. The Appellant gets \$866.00 in monthly SSDI benefit. The Department gave the Appellant an unearned income disregard of \$362.00 a month, however the Appellant resides in boarding home and therefore qualifies for boarding home disregard of \$269.79 instead of \$362.00 disregard 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.

### DECISION

The Appellant's appeal is **Remanded** to the Department.

### ORDER

1. The Department shall recalculate the AABD using the correct boarding home disregard effective [REDACTED] 2021.
2. Compliance with this order shall be forwarded to the undersigned no later than [REDACTED] 2022.

Swati Sehgal  
Hearing Officer

Pc: Yecenia Acosta, Operations Manager, DSS, RO#32  
Joan Counsell, Fair Hearing Liaison, DSS, RO#32  
Tricia Morelli, Kristin Dowty, Managers, Department of Social Services, Central 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 06105-3725.

### **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.