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

[redacted], 2023
SIGNATURE CONFIRMATION

[redacted]
[redacted]
REQUEST# 206919

NOTICE OF DECISION

PARTY

[redacted]
[redacted]
[redacted]

[redacted]
[redacted]
[redacted]

PROCEDURAL BACKROUND

On [redacted], 2022, the Department of Social Services (the "Department") sent [redacted] (the "Appellant"), a Notice of Action ("NOA") stating that the spenddown amount for her Husky C is $1,964.00 for the period [redacted] 2022 through [redacted], 2023.

On [redacted], 2022, the Appellant requested an administrative hearing to contest the spenddown amount of $1,964.00.

On [redacted], 2022, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for [redacted], 2023.

On [redacted] 2023, OLCRAH issued a notice rescheduling the administrative hearing for [redacted], 2023.

On [redacted], 2023, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-189 inclusive, of the Connecticut General Statutes, OLCRAH held a telephonic administrative hearing. The following individuals participated in the hearing:

[redacted], Appellant's Representative
Andrena Wilson, Department's Representative
Melissa Prisavage, Hearing Officer

STATEMENT OF THE ISSUE

The primary issue to be decided is whether the Appellant must meet a spenddown under the Husky C- Medically Needy Aged, Blind, Disabled – Spenddown program ("MAABD spenddown program") before medical coverage under Medicaid is activated.

A secondary issue is whether the Department calculated the Appellant's MAABD spenddown amount as $1,964 for the six month spenddown period [redacted] 2022 through [redacted], 2023 correctly.

FINDINGS OF FACT

1. The Appellant receives medical coverage under the MAABD spenddown program as administered by the Department. (Hearing Record)

2. The Appellant is [redacted]-years old [DOB [redacted]]. (Appellant's Representative's Testimony)

3. The Appellant is not married. (Appellant's Representative's Testimony)

4. The Appellant is disabled. (Appellant's Representative's Testimony)

5. The Appellant lives alone. (Appellant's Representative's Testimony)

6. In 2022, the Appellant received Social Security Disability ("SSDI") benefits of $605.00 per month and $785.00 per month. (Exhibit 4: Verification of Income from Bendex, Exhibit 5: Verification of Income from SOLQ, Appellant's Representative's Testimony)

7. Beginning in [redacted] of 2023, the Appellant's SSDI increased to $657.00 per month and $854.00 per month. (Exhibit 4, Exhibit 5, Appellant's Representative's Testimony)

8. The Appellant receives Medicare Part A, Medicare Part B, and Medicare Part D benefits from the Social Security Administration. (Appellant's Representative's Testimony)

9. The Appellant receives Medicaid under the Medicare Savings Plan ("MSP") Qualified Medicare Beneficiary ("QMB") program. The QMB program pays the Appellant's Medicare Part B premiums monthly and the co-pays and deductibles for Medicare covered services. (Department's Testimony)

10. The medically needy income limit ("MNIL") under the MAABD program is $653. (Department's Testimony)

11. In 2022, the standard unearned disregard was $409.00. (Hearing record)

12. In 2023, the standard unearned disregard was $482.00. (Exhibit 7: Income Test Page, Hearing record)

13. The Department determined that the Appellant's total countable income for the months of [redacted] through [redacted] 2022 was $981.00 per month and $1,029.00 for [redacted] 2023. SSDI $605.00 + $785.00 = $1,390.00 - $409.00 standard unearned income disregard for [redacted] through [redacted] 2022 = $981.00. SSDI $657.00 + $854.00 = $1,511.00 - $482.00 standard unearned income disregard beginning [redacted] 2023 = $1,029.00. (Department's Testimony)

14. The Department determined that the Appellant's countable income of $981.00 for [redacted] through [redacted] 2022 and $1,029.00 for [redacted] 2023 exceeds the Husky MNIL of $653.00 resulting in eligibility for medical coverage under the MAABD spenddown program with a spenddown amount of $2,016.00 for the 6-month spenddown period of [redacted], 2022 through [redacted], 2023. $981.00 applied income - $653.00 MNIL = $328.00 excess income for [redacted] through [redacted] 2022. $1,029.00 applied income - $653.00 MNIL = $376.00 excess income for [redacted] 2023. $328.00 excess income x 5 months = $1,640.00 + $376.00 = $2,016.00 spenddown amount. (Hearing Record)

15. On [redacted], 2022, the Department notified the Appellant that her income is too high for "ACTIVE medical coverage which means the individual(s) is still in a spend-down." The notice listed the spend-down amount as $1,964.00 for the spenddown period [redacted] 2022 through [redacted], 2023. "Medical coverage for the individual(s) will become active (no longer in a spenddown) when the individual(s) shows DSS proof of acceptable medical expenses, not covered by Medicare or other insurance, for the total amount of the spenddown." (Exhibit 12: NOA dated [redacted], 2022)

16. The Appellant has out of pocket medical expenses. The Appellant has begun paying co-pays for prescriptions as of [redacted] 2023. The Appellant had no out of pocket expenses prior to [redacted] 2023. Proof of out-of-pocket prescription co-pays was not provided to the Department. (Appellant's Representative's Testimony)

17. On [redacted], 2022, the Appellant requested an administrative hearing to contest the spenddown amount. (Hearing Record)

18. On [redacted] 2023, the Department correctly updated the Appellant's SSDI income from $605.00 per month and $854.00 per month to $657.00 per month

and $854.00 per month for [redacted] 2023. This update also corrected the spenddown amount to $2,016.00. A NOA was issued on [redacted] 2023 which reflects the corrected income amounts. (Exhibit 3: NOA dated [redacted] 2023)

19. 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], 2022. The record was reopened on [redacted], 2023, to allow the Department to submit copies of all notices that were sent to the Appellant in [redacted] 2022. The Department provided those documents and the record closed on [redacted], 2023. Therefore, this decision was due no later than [redacted], 2023. (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 Income Maintenance, 214 Conn. 601, 573 A.2d 712 (1990)).

3. Uniform Policy Manual ("UPM") § 2540.01(A) provides that in order to qualify for medical assistance, an individual must meet the conditions of at least one coverage group.

4. UPM § 5500.01 provides that a needs group is the group of persons comprising the assistance unit and certain other persons whose basic needs are added to the total needs of the assistance unit members when determining the income eligibility of the assistance unit.

5. UPM § 5515.05(C)(2)(a)(b) provides in part that the needs group for Medical Assistance for the Aged, Blind and Disabled ("MAABD") unit includes the applicant or recipient and 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.

6. UPM § 2015.05(A) provides that the assistance unit in Assistance to the Aged, Blind or Disabled ("AABD") and MAABD consists of only one member. In these programs, each individual is a separate assistance unit.

The Department correctly determined that the Appellant is in a needs group of one person and an assistance unit of one member.

7. UPM § 5050.13(A)(1) provides that income from Social Security is treated as unearned income for all programs.

   The Department correctly determined that the Appellant's total gross monthly unearned income in 2022 was $1,390.00 and beginning in [redacted] 2023 is $1,511. However, at the time that the NOA that was sent, on [redacted], 2022, the gross monthly unearned income for [redacted] 2023 was incorrectly counted as $1,459.00 due to an error in updating one of the Social Security amounts. The Department corrected this on [redacted] 2023.

8. UPM § 5050.13(A)(2) provides that 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.

9. UPM § 5030.15(A) provides that except as provided in section 5030.15 D., unearned income disregards are subtracted from the unit member's total gross monthly unearned income.

10. UPM § 5030.15(B)(1)(a) provides that the standard 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 1st thereafter, this disregard shall be increased to reflect the annual cost of living adjustment used by the Social Security Administration.

    The Department correctly determined that the Appellant's Unearned Income Disregard for 2022 was $409.00. Note- this change was effective January 1, 2022 but is not yet reflected in policy.

    The Department correctly determined that the Appellant's Unearned Income Disregard for 2023 increased to $482.00. Note- this change was effective January 1, 2023 but is not yet reflected in policy.

    The Department was correct when it determined that the Appellant's applied unearned income was $981.00 ($1,390.00 - $409.00 = $981.00) for the months of [redacted] 2022 through [redacted] 2022. The Department was incorrect when it determined that the Appellant's applied unearned income was $977.00 ($1,459.00 - $482.00 = $977.00) for the month of [redacted] 2023, as it should be $1,029 ($1,511.00 - $482.00 = $1,029.00).

11. UPM § 5520.20(B)(1) provides that 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.

    The Department correctly calculated the Appellant's six-month period of eligibility as [redacted], 2022, through [redacted], 2023.

12. 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 Medically Needy Income Limit ("MNIL") of an assistance unit varies according to the size of the assistance unit.

13. UPM § 4530.15(B) provides that the MNIL 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.

14. The monthly Temporary Family Assistance grant for one person is $456.00.

15. The MNIL for one person is $653.00 ($456.00 X 143% = $653.00 when rounded to the nearest whole dollar).

    The Department correctly determined that the MNIL for a needs group of one is $653.00.

16. UPM § 5520.25(B) provides that when the amount of the assistance unit's monthly income exceeds the MNIL, income eligibility for the 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.

17. The Appellant's applied income exceeds the MNIL by $328.00 ($981.00, applied income - $653.00, MNIL = $328.00) for the months of August 2022 through December 2022 and by $376.00 ($1,029.00, applied income - $653.00, MNIL = $376.00) for the month of January 2023.

    The Department correctly determined that during the six-month period from [redacted] 2022 through [redacted] 2023, the Appellant's applied income exceeds the MNIL. However, the NOA incorrectly indicated the amount as $1,964.00 ($328 x 5 = $1,640.00 + $324.00 = $1,964.00).

    On [redacted] 2023, the Department correctly updated the Appellant's SSDI income for [redacted] 2023 to $657.00 per month and $854.00 per month. This update also corrected the spenddown amount to $2,016.00 ($328.00 x 5 = $1,640.00 + $376.00 = $2,016.00) for the period of [redacted] 2022 through [redacted], 2023.

18. UPM § 5520.25(B) provides for the use of medical expenses under a spend-down.
    1. Medical expenses are used for a spend-down if they meet the following conditions:

        a. the expenses must be incurred by a 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.

    2. The unpaid principal balance which occurs or exists during the spend-down period for loans used to pay for medical expense incurred before or

        during the spend-down period, is used provided that:

        a. the loan proceeds were actually paid to the provider; and
        b. the provider charges that were paid with the loan proceeds have not been applied against the spend-down liability; and
        c. the unpaid principal balance was not previously applied against spend-down liability, resulting in eligibility being achieved.

    3. Medicaid expenses are used in the following order of categories and, within each category, chronologically starting with the oldest bills:

        a. first, Medicare and other health insurance premiums, deductibles, or coinsurance charges. Medical insurance premium expenses which exist at the time of the processing of the application which are reasonably anticipated to exist for six month prospective period are considered as a six-month projected total;
        b. then, expenses incurred for necessary medical and remedial services that are recognized under State Law as medical costs but <u>not</u> covered by Medicaid in Connecticut.

    4. When unpaid loan principal balances are used, they are categorized by the type of expense they were used to pay, as in B.3.

    5. Expenses used to determine eligibility in a retroactive period are used in the following order:

        a. <u>unpaid</u> expenses incurred anytime prior to the three-month

            retroactive period; then

b. paid or unpaid expenses incurred within the three-month retroactive period but not later than the end of the retroactive month being considered; then

c. an unpaid principal balance of a loan which exists during the retroactive period.

6. Expenses used to determine eligibility in the prospective period are used in the categorical and chronological order described previously.

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.

19. UPM § 5520.30(B)(3) provides that when the amount of incurred expense is insufficient to offset the excess income, no eligibility exists for that six month period.

The Department was correct when it determined that the Appellant did not provide any unpaid medical expenses to offset the excess income.

DECISION

Appellant's appeal is **DENIED**.

Melissa Prisavage

Melissa Prisavage
Fair Hearing Officer

CC: Sarah Chmielecki, Ralph Filek, Tim Latifi, DSS Operations Manager, New Haven Regional Office
Andrena Wilson, Department Representative, New Haven 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.