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

[redacted] 2023
Signature Confirmation

Client ID # [redacted]
Case ID [redacted]
Request # 208177

NOTICE OF DECISION

PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted] 2022, the Department of Social Services (the "Department") sent [redacted] (the "Appellant") a Notice of Action ("NOA) informing him of a change to the amount of his spenddown under the Husky C-Medically Needy for Aged, Blind, and Disabled Spenddown Program ("MAABD").

On [redacted] 2023, the Appellant requested an administrative hearing to contest the Department's calculation of the spenddown amount under the MAABD.

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

On [redacted] 2023, 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 by teleconference.

The following individuals appeared for the administrative hearing:

[redacted], Appellant
[redacted], Appellant Spouse
Tori Lussier, Department's Representative
Lisa Nyren, Hearing Officer

The record remained open for the submission of additional evidence from the Department and the Appellant. On [redacted] 2023, the Department submitted additional evidence for review. No additional evidence was received from the Appellant. On [redacted] 2023, the hearing record closed.

STATEMENT OF THE ISSUE

The issue is whether the Department correctly calculated the Appellant's spenddown amount under the MAABD program as $16,277.18 for the spenddown period [redacted] 2022 through [redacted] 2023.

A secondary issue is whether the Department correctly offset the Appellant's spenddown under the MAABD program with medical expenses incurred by the Appellant during the same spenddown period.

FINDINGS OF FACT

1. The Appellant receives Medicaid under the MAABD spenddown program beginning [redacted] 2022. The Appellant's six-month spenddown period begins [redacted] 2022 and ends [redacted] 2023. (Hearing Record)

2. The Appellant is married to [redacted] ("Spouse"). (Exhibit B: Application)

3. The Appellant is age [redacted] and disabled. (Exhibit B: Application)

4. The Spouse is age [redacted] and not disabled. (Exhibit B: Application)

5. The Appellant and Spouse live together in [redacted] (Spouse Testimony and Exhibit B: Application)

6. The Appellant receives gross Social Security Disability ("SSDI") benefits of $1,251.10 per month. Beginning [redacted] 2023, the Appellant's SSDI increased to $1,359.90 per month. (Stipulated)

7. The Spouse works full time for [redacted] ("employer"). The Spouse works thirty five (35) hours per week earning $19.00 per hour. The Spouse's drive to work is four miles round trip. The Spouse earned the following biweekly pays:

[redacted] 2022	Amount		[redacted] 2022	Amount
Gross wages	$1,285.73		Gross wages	$1,457.30

Social Security	$79.72		Social Security	$90.35
Medicare	$18.64		Medicare	$21.13
Federal Income Tax	$28.96		Federal Income Tax	$46.12
CT Income Tax	$6.53		CT Income Tax	$10.42
CT PFML	$6.43		CT PFML	$7.28
Net wages	$1,145.45		Net wages	$1,282.00

(Stipulated)

8. The Department determined the Spouse's monthly gross earnings as $2,805.78, excluding holiday pay of $133.00 on [redacted] 2022. [redacted] 2022 Gross Wages $1,285.73 + [redacted] 2022 Gross Regular Wages $1324.30 ($1,457.30 Gross Wages – Holiday Pay $133.00) = $2,610.03/2 = $1,305.01 x 2.15 = $2,805.78225. (Exhibit D: Spenddown Calculation, Exhibit R: Case Notes, and Exhibit T: Paystubs)

9. The medically needy income limit ("MNIL") under the MAABD program for a needs group of two equals $879.00. (Exhibit D: Spenddown Calculation and Exhibit E: DSS Program Standards, and Department Representative's Testimony)

10. The Appellant has medical coverage under Medicare Part A and Medicare Part B as administered by the Social Security Administration. (Spouse Testimony and Exhibit B: Application)

11. On [redacted] 2022, the Appellant's medical benefits under the Medicare Savings Program ("MSP") Qualified Medicare Beneficiary ("QMB") as administered by the Department closed. Under the MSP, the Department paid the Appellant's Medicare Part B monthly premium and deductibles and copays associated with Medicare. (Department Representative Testimony, Spouse Testimony, and Exhibit G: Notice of Action)

12. Beginning [redacted] 2022, the Appellant pays the Medicare Part B premium of $170.10 monthly. Effective [redacted] 2023, the Medicare Part B premium decreased to $164.90 monthly. (Spouse Testimony and Department Representative Testimony)

13. On [redacted] 2022, the Department determined the Appellant eligible for MAABD under a spenddown totaling $16,205.28 for the period [redacted] 2022 through [redacted] 2023 because the household's monthly counted income of $3,579.88 exceeds the Husky C income limit of $879.00. (Exhibit J: Notice of Action, Exhibit K: Spend-down Welcome Packet, Exhibit S: Case Notes, Exhibit U: Spenddown Calculation)

    - SSDI $1,251.00 + Earnings $2,805.78 = $4,056.78 Total household income

- $4,056.78 - $476.90 shared living disregard – MNIL $879.00 = $2,700.88 excess income
- $2,700.88 x 6 months = $16,205.28 spenddown

14. On [redacted] 2022, the Department issued the Appellant a Notice of Action and Spend-down Welcome Packet informing him of his eligibility for Medicaid under the Husky C Spenddown program listing the spenddown amount as $16,205.28. (Exhibit J: Notice of Action and Exhibit K: Spend-down Welcome Packet)

15. On [redacted] 2022, the Department notified the Appellant of a change to the spenddown for the period [redacted] 2022 through [redacted] 2023. The Department erroneously accepted the following medical expenses under the spenddown as listed on the Appellant's [redacted] 2022 application for medical benefits: [redacted] 2022 $899.00 Medical/Hospital Care Bill and [redacted] 2022 $5,690.00 Prescription/Nonprescription Meds Bill, TOTAL $6,589.00. The Department offset the spenddown effectively reducing the spenddown from $16,205.58 to $9,616.58. $16,205.58 - $6,589.00 = $9,616.58. (Exhibit B: Application, Exhibit L: Notice of Action, Exhibit M: Notice of Spend-down Amount Change, and Department Representative's Testimony)

16. On [redacted] 2022, the Department notified the Appellant of a change to the spenddown for the period [redacted] 2022 through [redacted] 2023 due to the increase in the Appellant's SSDI income. The Department determined the new spenddown amount as $16,277.18. (Exhibit N: Notice of Action and Department Representative Testimony)

    - [redacted] 2022 – [redacted] 2022
    - SSDI $1,251.00 + Earnings $2,805.78 = $4,056.78 Total household income
    - $4,056.78 - $476.90 shared living disregard – MNIL $879.00 = $2,700.88 excess income
    - $2,700.88 x 4 months = $10,803.52
    - [redacted] 2023 – [redacted] 2023
    - SSDI $1,359.90 + Earnings $2,805.78 = $4,165.68 Total household income
    - $4,165.68 – 549.90 shared living disregard – MNIL $879 = $2,736.78 excess income
    - $2,736.78 x 2 months = $5,473.56
    - $10,803.52 9/22 – 12/22 + $5,473.56 1/23 – 2/23 = $16,277.18 New Spenddown

17. On [redacted] 2022, the Department issued a second notice to the Appellant notifying him of medical expenses to offset his spenddown. The

Department notified the Appellant of his new spenddown amount of $9,358.38. The Department accepted the ongoing Medicare Part B premium of $164.90 for [redacted] 2023 and [redacted] 2023 totaling $329.80 and applied this to the new spenddown amount in addition to the two prior accepted expenses of $899.00 and $5,690.00 totaling $6,918.80. Refer to Finding of Fact #15. $16,277.18 - $6,981.80 = $9,358.38. (Exhibit O: Notice of Spend-down Amount Change)

18. With the loss of the MSP program, the Appellant cannot afford the deductibles and co-pays under Medicare and seeks Medicaid coverage with the Department. Additionally, the Appellant has outstanding medical bills, including dental bills, for which he seeks coverage. (Spouse Testimony)

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] 2023. However, the close of the hearing record, which had been anticipated to close on [redacted] 2023, did not close for the admission of evidence until [redacted] 2023 at the Appellant's request. Because this [redacted]-day delay in the close of the hearing record arose from the Appellant's request, this final decision was not due until [redacted] 2023, and is therefore timely.

CONCLUSIONS OF LAW

1. Section 17b-2(6) of the Connecticut General Statutes provides as follows:

   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.

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

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 2530.05(A) of the Uniform Policy Manual ("UPM") provides as follows:

To qualify for the State Supplement or related Medical Assistance programs on the basis of disability, the individual must be disabled as determined by SSA or the Department. The individual must be found to have an impairment which:

1. Is medically determinable; and
2. Is severe in nature; and
3. Can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve (12) months; and
4. Except as provided in paragraph C below, prevents the performance of pervious work or any other substantial gainful activity which exists in the national economy.

"An individual who is considered disabled by SSA is considered disabled by the Department." UPM § 2530.10(A)(1)

The Department correctly determined the Appellant meets the disability criteria under the MAABD program because the Appellant receives SSDI disability benefits from the SSA.

4. "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 an assistance unit of one, the Appellant.

5. "This chapter describes how the level of need is determined for each program. To this end, it presents material on how the needs of non-members of the assistance unit are regarded and who these persons are in each program." UPM § 5515

   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 assistance unit's eligibility." UPM § 5020.75(A)(3)

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

6. "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 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 $879.00 for a needs group of two.

7. Department policy provides as follows:

   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)

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

   The Department correctly included the Appellant's SSDI benefits when determining the assistance unit's gross income.

   "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 SSDI monthly benefit in 2022 as $1,251.10.

   The Department correctly determined the Appellant's SSDI benefit increased to $1,359.90 beginning [redacted] 2023.

9. Department policy provides as follows:

   In addition to income which is actually received by the assistance unit, the Department also considers some income which is received by persons who are not part of the unit. This chapter describes who these persons are the methods used to calculate the amounts deemed.

   UPM § 5020

   Department policy provides as follows:

   The Department deems income from: the spouse of a 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)

   "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)

   The Department correctly determined the Spouse's wages as deemed income available to the assistance unit.

   "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)(4)

   Department policy provides 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:

   The deemor's gross earnings are reduced by deducting the following personal employment expenses, as appropriate:

   1. Mandatory union dues and cost of tools, materials, uniforms or other protective clothing when necessary for the job and not provided by the employer;
   2. Proper federal income tax based upon the maximum number of deductions to which the deemor is entitled;

3. FICA, group life insurance, health insurance premiums, or mandatory retirement plans;
4. Lunch allowance at .50 cents per working day;
5. Transportation allowance to travel to work at the cost per work day as charged by private conveyance or at .12 cents per mile by private car or in a car pool. Mileage necessary to take children to or to pick them up from a child care provider may also be included.

UPM § 5020.70(C)(3)(b)

"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)(d)

"The total amount of deemed income calculated is used without further reductions." UPM § 5045.10(D)

The Department incorrectly determined the Spouse's deemed income as $2,805.78; the correct amount is $2,631.93. Refer to chart below. [$1,153.51 + $1,294.80 = $2,448.31 / 4 weeks = $612.0775 x 4.3 weeks = $2,631.933] The Department failed to reduce the Spouse's earnings by personal employment expenses as outlined under Department policy.

[redacted] 2022	Amount		[redacted] 2022	Amount
Gross wages	$1,285.73		Gross wages	$1,457.30
Social Security	$79.72		Social Security	$90.35
Medicare	$18.64		Medicare	$21.13
Federal Income Tax	$28.96		Federal Income Tax	$46.12
Lunch Allowance $00.50 x 5 days	$2.50		Lunch Allowance $00.50 x 5 days	$2.50
Mileage 4 miles/day x 5 days x $00.12	$2.40		Mileage 4 miles/day x 5 days x $00.12	$2.40
Deemed wages	$1,153.51		Deemed wages	$1,294.80

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

"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:

Standard disregard
The disregard is [$409.00 effective 7/1/22] 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.

Special disregard
The disregard is [476.90 effective 7/1/22] for those individuals who share non-rated housing with at least one person who is not related to them as parent, spouse or child. This does not apply to individuals who reside in shelters for battered women or shelters for the homeless. 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) & (c)
Effective January 1, 2023, the standard disregard under the MAABD program increased to $482.00 per month and the special disregard increased to $549.90.

"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 incorrectly determined the assistance unit eligible for the special disregard of $476.90 for 2022 and $549.90 beginning in 2023. The special disregard is for those individuals who share non-rated household with individuals who are NOT related to them as a parent, spouse or child. The Appellant resides with his spouse and therefore the correct disregard is the standard disregard of $409.00. Beginning [redacted] 2023, the standard disregard increased to $482.00 per month.

The Appellant's applied unearned income equals $842.10 per month. [$1,251.10 SSDI - $409.00 disregard = $842.10 applied unearned income]

Beginning [redacted] 2023, the Appellant's applied unearned income equals $877.90 per month. [$1,359.90 SSDI - $482.00 disregard = $877.90]

11. "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 incorrectly determined the assistance unit's total applied income as $3,615.78 per month for the period [redacted] 2022 through [redacted] 2022. The correct total applied income equals $3,474.03 per month.

Appellant Applied Earnings	$00.00
Appellant Applied Unearned Income	$842.10
Spouse's Deemed Income	$2,631.93
Assistance Unit Total Applied Income	$3,474.03

The Department incorrectly determined the assistance unit's total applied income as $3,615.78 beginning [redacted] 2023. The correct total applied income increased to $3,509.83 per month.

Appellant Applied Earnings	$00.00
Appellant Applied Unearned Income	$877.90
Spouse's Deemed Income	$2,631.93
Assistance Unit Total Applied Income	$3,509.83

12. "When the assistance unit's applied income exceeds the CNIL, the assistance unit is ineligible to receive Medicaid as a categorically needy case." UPM § 5520.20(B)(5)(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)

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)

Department policy provides as follows:

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: 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)(5)(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)

On [redacted] 2022, the Department incorrectly calculated the Appellant's 6-month spenddown as $16,205.28 for the period [redacted] 2022 through [redacted] 2023.

On [redacted] 2022, the Department incorrectly adjusted the Appellant's 6-month spenddown to $16,277.18 for the period [redacted] 2022 through [redacted] 2023.

The total 6-month spenddown for the period [redacted] 2022 through [redacted] 2023 equals $15,641.78.

$3,474.03 monthly applied income x 4 months ([redacted] 2022 – [redacted] 2022) = $13,896.12

$3,509.83 x 2 months ([redacted] 2023 – [redacted] 2023) = $7,019.66

$13,896.12 + $7,019.66 = $20,915.78 Six-month applied income

$879.00 MNIL x 6 months = $5,274.00 Six-month MNIL

$20,915.78 - $5,274.00 = $15,641.78 6-month Total Spenddown

13. Department policy provides as follows:

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.

1. 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 member;
   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 expenses 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. Medical 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 the 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 not covered by Medicaid in Connecticut;
   c. Finally, expenses incurred for necessary medical and remedial services recognized under State law as medical costs and 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. Unpaid expenses incurred any time 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.

UPM § 5520.25(B)

Based on the hearing record, whether or not the medical/hospital care expense of $899.00 on [redacted] 2022 and the Prescription/non-prescription expense of $5,690.00 on [redacted] 2022 are qualifying expenses cannot be determined. The hearing record is void of any evidence to support the Appellant incurred such expenses.

On [redacted] 2022, the Department correctly determined Medicare Part B premiums as a qualifying expense under the spenddown, however the Department incorrectly determined the amount to offset the spenddown as $329.80, applying only the premiums for [redacted] 2023 and [redacted] 2023. The correct amount is $840.10. The Department failed to include premiums for [redacted] 2022, [redacted] 2022 and [redacted] 2022 which the Appellant was responsible to pay after the Department closed the Appellant's benefits under the QMB program effective [redacted] 2022.

- **$170.10 x 3 months (2022, 2022 and 2022) = $510.30**
- **$164.90 x 2 months (2023 and 2023) = $329.80**
- **$510.30 + 329.80 = $840.10 Medicare Part B premiums (2022 through 2023)**

Based on the hearing record, the correct spenddown amount remaining as of 2022 cannot be determined.

DECISION

With regards to the spenddown amount under the MAABD program, the Appellant's appeal is granted.

With regards to the medical expenses applied to offset the Appellant's spenddown, the Appellant's appeal is remanded back to the Department for further review.

DISCUSSION

The Department correctly determined the Appellant is subject to a spenddown under Medicaid. This means the Appellant is liable for medical expenses totaling $15,641.78 during the spenddown period beginning 2022 ending 2023 before Medicaid pays for any medical services and/or expenses **not** paid by Medicare or the MSP during this six month spend-down period. However, the Department failed to allow the appropriate deductions from the Spouse's earnings before deeming her income to the Appellant which resulted in an incorrect calculation of the spenddown amount.

Although the Appellant claimed he incurred over $6,000 in out of pocket medical costs during 2022 which the Department applied to offset the spenddown amount, the hearing record is void of any evidence supporting this expense. The Appellant may submit proof of out of pocket medical expenses, including dental expenses, for the Department to review and apply only those qualifying medical expenses to offset the spenddown.

ORDER

1. The Department must recalculate the Appellant's MAABD spenddown for the period 2022 through 2023 reducing the Spouse's deemed income by the appropriate personal employment expenses as outlined under UPM § 5020.70(C)(3)(b).

2. The Department must review the Appellant's [redacted] 2022 medical/hospital care expense of $899.00 and the [redacted] 2022 Prescription/non-prescription expense of $5,690.00 to determine if these expenses meet the criterion under UPM § 5020.70 as qualifying medical expenses during the [redacted] 2022 through [redacted] 2023 spenddown period.

3. The Department must offset the [redacted] 2022 to [redacted] 2023 spenddown by including the Medicare Part B premiums paid for [redacted] 2022, [redacted] 2022, and [redacted] 2022 as a qualifying medical expense increasing the total Medicare Part B premiums paid from $329.80 to $840.10.

4. Compliance is due 14-days from the date of this decision.

Lisa A. Nyren
Lisa A. Nyren
Hearing Officer

CC: Tonya Beckford, SSOM RO #42
Tori Lussier, FHL RO #42

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.