

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

██████████ 2024
Signature Confirmation

████████████████████
████████████████████
Request #: 226828

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████, 2023, the Department of Social Services (the “Department”) sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) stating her income exceeds the limit for the Husky C- Medical Assistance for the Aged, Blind, and Disabled (“MAABD”) program and she must meet a spend-down in the amount of \$3,822.50 before her medical benefits can be activated.

On ██████████ 2023, the Appellant requested an administrative hearing to contest the Department’s decision to place her in a spend-down.

On ██████████ 2023, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2023.

On ██████████ 2023, in accordance with sections 17b-60, 17-61 and 4-176e to 4-184 inclusive, of the Connecticut General Statutes, OLCRAH held an in-person administrative hearing.

The following individuals participated in the hearing:

████████████████████, Appellant
████████████████████, Appellant’s spouse
Chris Filek, Department’s Representative

Dalizza Esposito, Department observer
Amy MacDonough, Hearing Officer

STATEMENT OF THE ISSUE

The first issue is whether the Department correctly determined the Appellant's income exceeds the Medically Needy Income Limit ("MNIL") for the MAABD program.

The second issue is whether the Department correctly calculated the Appellant's spend-down under the MAABD program in the amount of \$3,822.50 for the spend-down period of [REDACTED] 2023, through [REDACTED] 2024.

FINDINGS OF FACT

1. The Appellant's household consists of two (2) members: the [REDACTED]-year-old Appellant [Date of Birth: [REDACTED]] and her [REDACTED]-year-old spouse [Date of Birth: [REDACTED]]. (*Spouses Testimony; Exhibit 6: Online Application*)
2. On [REDACTED] 2023, the Department received documents including asset verification and wage information for the Appellant's spouse from [REDACTED]. (*Department's Testimony; Exhibit 4: Case Notes*)
3. On [REDACTED], 2023, the Department issued a NOA to the Appellant stating her income was too high for medical coverage and that she may become eligible for medical through the spend-down process. To become eligible for medical coverage she must meet a spend-down in the amount of \$3,822.50 for the period of [REDACTED] 2023, through [REDACTED] 2024. The notice stated medical coverage will become active when the individual shows DSS proof of acceptable medical expenses, not covered by Medicare or other insurance, for the total amount of the spend-down. (*Department's Testimony; Exhibit 4; Exhibit 8: NOA*)
4. On [REDACTED] 2023, the Department received an online application, from the Appellant, submitted on [REDACTED] 2023, requesting SNAP, QMB, and medical for a household of two (2). The application listed income from the Appellant's spouse from the following sources: [REDACTED], and [REDACTED]. (*Department's Testimony; Exhibit 4; Exhibit 6: Online Application*)
5. The Appellant's spouse receives Social Security in the amount of \$935.00 monthly. (*Department's Testimony; Exhibit 4; Exhibit 9: SOLQ-I Results Details*)
6. The Appellant has no sources of income. (*Spouse's Testimony; Department's Testimony; Exhibit 6*)

7. The Appellant's Spouse works for [REDACTED] under a contract for fifteen (15) weeks and earned the following pay from a start date of [REDACTED] 2023: [REDACTED]/2023 \$1,443.76, [REDACTED]/2023 \$1,443.76, and [REDACTED]/2023 \$1,443.76. The Appellant's spouse is paid twice per month. (*Appellant's Spouse's Testimony; Exhibit 1: W-35, [REDACTED]; Exhibit 3: Self-Attested Letter*)
8. The Appellant's Spouse works for [REDACTED] under a contract for fifteen (15) weeks and earned the following pay from a start date of [REDACTED], 2023: [REDACTED]/2023 \$1,200.00, [REDACTED]/2023 \$1,200.00, [REDACTED]/2023 \$1,200.00, [REDACTED]/2023 \$1,200.00, [REDACTED]/2023 \$1,200.00, [REDACTED]/2023 \$1,200.00, [REDACTED]/2023 \$1,200.0, [REDACTED]/2023 \$1,200.00, and [REDACTED] 2023 \$1,200.00. The Appellant's Spouse is paid bi-weekly. (*Appellant's Spouse's Testimony; Exhibit 2: W-35, [REDACTED]; Exhibit 3*)
9. On [REDACTED] 2023, the Appellant requested a fair hearing because she disagrees with the medical being in a spend-down. (*Department's Testimony; Hearing Record*)
10. On [REDACTED] 2023, the Department updated the Appellant's household income and issued a NOA informing her that the new spend-down amount would be \$13,159.56 for the period of [REDACTED] 2023, through [REDACTED] 2024. (*Department's Testimony; Exhibit 5: NOA*)
11. The Department determined the spend-down amount using the following calculations for the initial month of [REDACTED] 2023:

[REDACTED] income (exact)	\$2,887.52
(+) [REDACTED] income (exact)	\$2,400.00
Total Gross Earned Income	\$5,287.52
(-) earned income disregard	\$65.00
Adjusted Earned Income	\$5,222.52
(/) by 2 (1/2 adjusted income)	\$2,611.26
(+) Social Security	\$935.00
Total Monthly Income	\$3,546.26
(-) Standard disregard	\$482.00
Adjusted Monthly Income	\$3,064.26
(-) income limit for household of 2 (MNIL)	\$946.00
Total excess income amount [REDACTED]/2023	\$2,118.26

(*Department's Testimony; Hearing Record*)

12. The Department determined the spend-down amount for the remaining five (5) months using the following calculations:

[REDACTED] income (average)	\$2,887.52
(+) [REDACTED] income (average)	\$2,580.00
Total Gross Earned Income	\$5,467.52
(-) earned income disregard	\$65.00
Adjusted Earned Income	\$5,402.52

(/) by 2 (1/2 adjusted income)	\$2,701.26
(+) Social Security	\$935.00
Total Monthly Income	\$3,636.26
(-) Standard disregard	\$482.00
Adjusted Monthly Income	\$3,154.26
(-) income limit for household of 2 (MNIL)	\$946.00
Total excess income per month	\$2,208.26
(x) 5 remaining months of spend-down	\$11,041.30
Total excess income for 5 months	\$11,041.30

(Department's Testimony; Hearing Record)

13. The Department calculated the spend-down amount of \$13,159.56 by adding the excess income from ██████████ 2023 and the excess income for the remaining five (5) months of ██████████ 2023, through ██████████ 2024 (\$2,118.26+\$11,041.30=\$13,159.56). *(Department's Testimony; Hearing Record)*
14. The Appellant's Spouse disagrees with the spend-down amount because he does not have a regular job that pays him throughout the whole year. The Appellant's spouse reports there are many months that he does not get paid because his jobs are by contract and the amount he is paid varies depending on the number of students that sign up for his classes. *(Appellant's spouse's Testimony)*
15. The Appellant's Spouse is on an inactive medical spend-down; however, the Appellant only requested the hearing on her medical due to her medical issues and need for medical insurance. *(Appellant's Spouse's Testimony; Department's Testimony)*
16. As of the date of this hearing, the Appellant, nor the spouse have submitted any medical bills to offset the amount of the spend-down. *(Department's Testimony; Appellant's spouse's Testimony)*
17. The issuance of this decision is timely under Connecticut General Statutes 17b-61(a), which requires that the agency issue a decision within 90 days of the request for an administrative hearing. The hearing request was received on ██████████ 2023; therefore, this decision is due no later than ██████████, 2024.

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. Uniform Policy Manual (“UPM”) § 2015.05(A) provides for AABD and MAABD assistance unit basic requirements and states the assistance unit in AABD and MAABD consists of only one member. In these programs, each individual is a separate assistance unit.

UPM § 5515.05(C)(2) provides that 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 are sharing 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 § 5020.75(A)(3) provides 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.

The Department correctly determined the Appellant to be an assistance unit of one.

The Department correctly determined the Appellant’s household is a needs group of two (2), the Appellant and the Spouse.

4. UPM § 2525.15(B) provides for categorical eligibility requirements; age, and states to meet the age requirement for State Supplement and related Medicaid based on old age, the individual must be sixty-five (65) years of age or older.

The Department correctly determined the Appellant meets the age requirement for the purposes of the MAABD program because the Appellant is over the age of sixty-five (65).

5. UPM § 2540.01(A) provides for Medicaid coverage groups and coverage group rules and states in order to qualify for MA, an individual must meet the conditions of at least one coverage group.

UPM § 2540.01(C) provides for Medically Needy Eligibility and states generally, individuals qualify for MA as medically needy of: (1) their income or assets exceed the limits of the AFDC or AABD programs; (2) their assets are within the medically needy asset limit; (3) their income either: (a) is within the Medically Needy Income Limit (MNIL); or (b) can be reduced to the MNIL by a spend-down of medical expenses. (cross reference: 5520).

6. The 2023 Federal Poverty Guidelines for the 48 contiguous states and the District of Columbia for a household of two is \$19,720.00 annually. [Federal Register/Vol. 88, No. 12/Thursday, January 19, 2023, page 3424]

The Department correctly determined the Federal Poverty Limit (“FPL”) for a household of two (2) to be \$1,644.00 monthly ($\$19,720.00 / 12 \text{ months} = \$1,643.33$ rounded up).

7. Section 17b-104 of the Connecticut General Statutes provides in part for Temporary family assistance program standard of need, payment standards and states (a) 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 standard of need for the temporary family assistance program shall be fifty-five per cent of the federal poverty level.

Section 17b-104(c) of the Connecticut General Statutes provides on and after July 1, 2022, the payment standards for families receiving assistance under the temporary family assistance program shall be equal to seventy-three per cent of the standards of need established for said program under subsection (a) of this section.

The Department correctly determined the Standard of Need for the Appellant to be \$905.00 ($\$1,644.00 * 55\%$ of the FPL= $\$904.20$ rounded up).

The Department correctly determined the payment standard for the Appellant to be \$661.00 ($\$905.00 * 73\%$ = $\$660.65$ rounded up).

8. UPM § 4530.15(A) provides for Medical Assistance Standards and the Medically Needy Income Limit (MNIL) provisions and states (1) a uniform set of income standards is established for all assistance units who do not qualify as categorically needy. (2) The MNIL of an assistance unit varies according to: (a) the size of the assistance unit; and (2) the region of the state in which the assistance unit resides.

UPM § 4530.15(B) provides for the Standard of Assistance and states the medically needy income limit is the amount equivalent to 143 percent of the benefit amount that ordinarily would be paid under the TFA program to an assistance unit of the same size with no income for the appropriate region of residence.

The Department correctly determined the MNIL for the Appellant’s unit size of two (2) to be \$946.00 ($\$661.00 * 143\%$ = $\$945.23$ rounded up).

9. UPM § 5020.75(A)(1) provides for deemed income from spouses and parents and states 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(C) provides for deeming methodology and states deemed income is calculated from parents and from spouses in the same way as in AABD for members of the following coverage groups: (4) Medically Needy Aged, Blind, and Disabled.

The Department correctly determined that the Appellant's Spouses' income is deemed to the Appellant.

10. UPM § 5050.13(A) provides for treatment of specific types of income and states for Social Security and Veterans' Benefits (1) income from these sources is treated as unearned income in all programs.

UPM § 5025.05(B)(1) provides for income received monthly and prospective budgeting system (cross reference: 6015.05) and states if income is received on a monthly basis, a representative monthly amount is used as the estimate of income.

The Department correctly determined the Appellant's Spouses' SSDI monthly benefit as \$935.00.

11. UPM § 5020.70(C)(3) provides in relevant part for calculating AABD deemed income and states (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 § 5025.05(B)(2) provides for prospective budgeting system (cross reference: 6015.05) and states if income is received on other than a monthly basis, the estimate of income is calculated by multiplying 4.3 by a representative weekly amount that is determined as follows: (a) if income is the same each week, the regular weekly income is the representative weekly amount; (b) if income varies from week to week, a representative period of at least four consecutive weeks is averaged to determine the representative weekly amount; (c) if there has been a recent change or if there is an anticipated future change, the amount expected to represent future income is the representative weekly amount; (d) if income is received on other than a weekly basis, the income is converted to a representative weekly amount by dividing the income by the number of weeks covered.

The Department correctly determined the Appellant's Spouses' income from [REDACTED] and [REDACTED] to be earned income and deemed to the Appellant to determine eligibility for the medical program.

The Department correctly determined the Appellant's Spouse's income from the [REDACTED] to be paid bi-weekly.

The Department correctly determined the Appellant's Spouse's income from [REDACTED] to be paid twice monthly.

12. UPM § 5020.70(C)(2) provides for treatment of income; deemed income; calculating the amount deemed and states the amount deemed to the unit from the unit member's spouse is calculated in the following manner when the spouse has applied and has been determined eligible to receive AABD: (a) the deemor's self-employment earnings are reduced by self-employment expenses, if applicable; (b) the deemor's gross earnings are reduced by the appropriate deductions and disregards allowed under the program for which he or she has been determined eligible (Cross References: 5030- Income Disregards, 5035- Income Deductions); (c) the deemor's gross unearned income is reduced by the standard disregard (Cross Reference: 5030 – Income Disregards); (d) the applied earned and applied unearned income amounts are added together for a total amount of deemed income.

UPM § 5020.70(C)(3) provides for treatment of income; deemed income; calculating the amount deemed and states 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: (a) the deemor's self-employment earnings are reduced by self-employment expenses, if applicable; (b) the deemor's gross earnings are reduced by deducting the following person 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 care 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; (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.

The Appellant's Spouse has not been determined eligible for AABD medical assistance as his medical is inactive under a spend-down.

The Department failed to consider the income deductions from the Appellant's deemor spouse.

The amount of the Appellant's Spouse's deemed income cannot be determined; therefore, the amount of the excess income cannot be determined.

DISCUSSION

The Department correctly determined the Appellant to be over the MNIL for the months of [REDACTED] 2023, through [REDACTED] 2024 using the income provided at the time the action

was taken. The Department correctly determined the Appellant would have to meet a spend-down amount for these months prior to her medical becoming active.

The Department's initial NOA issued to the Appellant on [REDACTED] 2023, which showed a spend-down amount of \$3,822.50, incorrectly used income from only one of the Appellant's spouses' employers and his Social Security. When the Appellant submitted new information on [REDACTED] 2023, the Department verified all sources of income and changed the spend-down amount.

The Department failed to consider all earned income deductions, as stated in Conclusion of Law #12, from the Appellant's Spouse's income; therefore, the amount of the spend-down cannot be determined.

With the Appellant's Spouses' income being irregular and existing for only portions of the year, it would be advised for the Appellant and her spouse to report and provide verification of income changes to the Department when they occur.

DECISION

The Appellant's appeal is **REMANDED to the Department for further action.**

ORDER

1. The Department is ordered to review the Appellant's Spouse's earned income deductions per UPM § 5020.70(C)(3), recalculate the spend-down amount and send a new NOA.
2. If additional information is needed from the Appellant and her spouse to calculate the deductions, the Department is ordered to send a Request for Verifications form.
3. The Department will submit as compliance a new NOA or a Request for Verification form to the undersigned by no later than [REDACTED] 2024.


Amy MacDonough
Fair Hearing Officer

CC: Brian Sexton, Operations Manager, DSS, Middletown Regional Office
Chris Filek, Hearing Liaison

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.