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

[redacted], 2024
Signature Confirmation

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

NOTICE OF DECISION

PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted], 2023, the Department of Social Services (the "Department") sent [redacted] (the "Appellant") a Notice of Action ("NOA") indicating his income exceeds the limit for the HUSKY C - Medical Assistance for the Aged, Blind, and Disabled ("MAABD") program and that he must meet a spend-down of $24,022.34 before his medical benefits can be activated.

On [redacted], 2023, the Appellant requested an administrative hearing to contest the Department's calculation of his spend-down amount.

On [redacted], 2023, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for [redacted], 2024.

On [redacted], 2024, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-184 inclusive, of the Connecticut General Statutes, the OLCRAH held an administrative hearing. The following individuals participated in the hearing:

[redacted], Appellant
[redacted], Appellant's Witness
Garfield White, Department's Representative
Joseph Davey, Administrative Hearing Officer

The hearing record remained open until [redacted], 2024, for the submission of additional information from the Appellant and the Department. All information was received, and the record closed accordingly.

STATEMENT OF THE ISSUE

The first issue is whether the Appellant must meet a spend-down under the MAABD program.

The second issue is whether the Department correctly calculated the Appellant's spend-down amount under the MAABD program as $24,022.34 for the spend-down period of [redacted], 2023, to [redacted] 2024.

FINDINGS OF FACT

1. The Appellant is [redacted] ([redacted]) years old (DOB [redacted]) and lives with his spouse, [redacted], aged [redacted] ([redacted]) [DOB [redacted]]. Neither the Appellant nor his spouse are disabled. (Exhibit 11: W-1EDD dated [redacted], Appellant's Testimony)

2. On [redacted], 2023, the Department sent the Appellant a W-1348HUSC form informing him he would need to complete an application for HUSKY C as he was turning [redacted] years old and would need to transition from HUSKY A to HUSKY C. (Exhibit 6: Case Notes dated [redacted]-[redacted], Exhibit 13: Eligibility Determination Results printout)

3. On [redacted], 2023, the Appellant completed an application for himself for HUSKY C and Medicare Savings Program ("QMB") in the Department's Regional Office. (Exhibit 6, Exhibit 11: W-1EDD dated [redacted])

4. The Appellant is unemployed and has no income. (Exhibit 2: MAABD Income Test, Appellant's testimony)

5. The Appellant is a recipient of Medicare Part A, B, and D coverage from the Social Security Administration. (Exhibit 9: Medicare Benefits Summary screenshot)

6. The Appellant's spouse is employed at [redacted] (aka "[redacted]). (Exhibit 6, Exhibit 7: The Work Number database information for [redacted] Department's testimony)

7. The Appellant answered *"NO"* to the following questions on the [redacted], 2023, HUSKY C application: *"Does anyone in the household, who is eligible to receive a work-related deduction, incur or pay for allowable work-related expenses not covered by a third party"*, *"Is anyone in the household covered by health insurance or potentially eligible for health insurance?"* and *"Is anyone in the household considered unemployable, incapacitated/unable to work or caring for someone who is incapacitated?"* (Exhibit 11)

8. On [redacted], 2023, the Department completed processing of the Appellant's HUSKY C/QMB application. The Department's processing worker noted that the Appellant's spouse is *"working at [redacted] income on work# [redacted] #2,448.90, [redacted] $2,102.10 added to earned income screen."* The QMB was denied for exceeding the income limit and the HUSKY C was granted with an S99 spend-down. The hearing record does not reflect the spend-down amount at the time the HUSKY C spend-down was granted. (Exhibit 6, Hearing Record)

9. On [redacted], 2023, the Appellant re-applied for the QMB program. The Department recalculated the Appellant's household income to process the QMB application. The Appellant's spouse's income at [redacted] was verified using gross pay listed on the database the Work Number. The Department used pay dates of [redacted], 2023, and [redacted], 2023, and recalculated the Appellant's spouse's income as follows: $2,286.60 + $2,490.90 = $4,777.50 / 2 = $2,388.75 x 2.15 = $5,135.81. (Exhibit 6, Exhibit 7, Exhibit 12: W-1QMB application dated [redacted])

10. The Medically Needy Income Limit ("MNIL") under the MAABD program is $946.00 for a married couple. (Exhibit 2, Hearing Record)

11. The Department determined the Appellant's total countable net household income to be $5,135.81 per month [Spouse's calculated monthly wages at [redacted]]. (Exhibit 2, Hearing Record)

12. The Department determined that the Appellant's total countable household income of $5,135.81 per month exceeds the MNIL of $946.00 per month and that the Appellant was eligible for a HUSKY C spend-down with a certification period of [redacted], 2023, through [redacted], 2024. The Department calculated the spend-down amount as follows: *"In Mr. [redacted]'s situation, he was over* (the MNIL) *by $4,189.81, you take that number, and you multiply it by 6, and that comes out to $24,022.34 for the spend-down cycle of [redacted], 2023, through [redacted], 2024."* (Total countable net income of $5,134.81 – MNIL of $946.00 = $4,189.81 x 6 = $24,022.34). (Exhibit 2, Department's testimony, Hearing Record)

13. On [redacted], 2023, the Department denied the Appellant's application for QMB for exceeding the gross income limit. (Exhibit 2, Exhibit 6)

14. On [redacted], 2023, the Department issued the Appellant a NOA which stated in relevant part: *"You or a third party reported a change but the medical coverage is not changing."* The Appellant's spend-down amount remained $24,022.34. (Exhibit 3: NOA dated [redacted])

15. The Appellant did not report any out-of-pocket medical expenses to the Department prior to requesting an administrative hearing (Exhibit 3, Exhibit 6, Exhibit 10: Document search [redacted]-[redacted], Appellant's testimony)

16. On [redacted], 2024, after the administrative hearing, the Appellant submitted medical bills from [redacted], a Medicare Premium Bill, and an RX Profile displaying various prescriptions. (Appellant's Exhibit A: Medical Information)

17. The issuance of this decision is timely under Connecticut General Statutes ("Conn. Gen. Stat.") §17b-61(a), which requires that a decision be issued within [redacted] days of the request for an administrative hearing. The Appellant requested an administrative hearing on [redacted], 2023. The decision is due no later than [redacted], 2024. However, the hearing record was extended (2) days to allow for the submission of information from the Appellant and the Department. Therefore, this decision is not due until [redacted], 2024. (Hearing Record)

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.

   The Department has the authority to administer the HUSKY C program in Connecticut.

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)).

   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 is an assistance unit of one.

The Department correctly determined the Appellant's household is a needs group of two, consisting of the Appellant and his Spouse.

3. 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 MAABD program as he is [redacted] years old.

4. 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).

   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 to be $1,644.00 monthly ($19,720.00 / 12 months = $1,643.33 rounded up).

5. 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 x 55% of the FPL= $904.20 rounded up).

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

6. 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 assistance unit size of two to be $946.00 ($661.00 x 143%= $945.23 rounded up).

7. 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 from [redacted] is deemed to the Appellant.

8. 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.

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 live 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 Department correctly determined the Appellant's Spouse is paid bi-weekly and does not have any allowable earned income deductions.

The Department correctly determined the monthly amount of the Appellant's Spouses' deemed income from [redacted] ($2,286.60 + $2,490.90 = $4,777.50 / 2 = $2,388.75 x 2.15 = $5,135.81).

9. 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 correctly determined the Appellant's applied income (Spouses' deemed monthly income of $5,135.81).

10. UPM § 5520.20(B)(5) provides that 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: a. When the unit's total applied income equals or is less than the total MNIL's the assistance unit is eligible; b. 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. (Cross Reference: 5520.25 – 5520.35 – Spenddown.)

The Department correctly determined that the Appellant's applied income of $5,135.81 exceeded the MNIL of $946.00 for the six-month certification period of [redacted], 2023, through [redacted], 2024.

The Department correctly determined the Appellant must meet a spend-down to receive MAABD coverage.

The Department incorrectly determined the Appellant's spend-down amount.

DISCUSSION

Although the Department correctly determined that the Appellant must meet a spend-down before Medicaid coverage can be activated, the Department incorrectly calculated the amount of the spend-down based on the evidence provided in the hearing record. The Department testified that *"In [redacted]'s situation, he was over* (the MNIL) *by $4,189.81, you take that number, and you multiply it by 6, and that comes out to $24,022.34 for the spend-down cycle of [redacted], 2023, through [redacted], 2024."* (see FOF # 12). However, $4,189.81 multiplied by 6 is $25,138.86, not $24,022.34. The hearing record reflects that Mr. [redacted]'s applied income was updated by the Department on [redacted], 2023, (see FOF # 9) but does not reflect the spend-down amount prior to the update. It cannot therefore be determined how the Department arrived at a spend-down amount of $24,022.34 for the period of [redacted], 2023, through [redacted], 2024.

DECISION

The Appellant's appeal is **REMANDED** back to the Department for correction.

ORDER

1. The Department will recalculate the Appellant's spend-down amount from [redacted], 2023, through [redacted], 2024, and provide a breakdown of the calculation.

2. The Department will review the medical bills submitted by the Appellant for possible inclusion toward offsetting the recalculated spend-down amount. If any bills are determined eligible for use in offsetting the spend-down, they shall be applied, and the Department shall provide proof of the remaining spend-down (if any).

3. The Department shall demonstrate compliance with this order no later than (12) days from the date of this decision. Verification of compliance shall be sent to the undersigned via email confirmation.

Joseph Davey
Administrative Hearing Officer

CC: Garfield White, Department's Representative, Hartford Regional Office
Josephine Savastra, SSOM, Hartford Regional Office
Lindsey Collins, SSOM, Hartford Regional Office
Mathew Kalarickal, SSOM, Hartford Regional Office
David Mazzone, SSOM, Hartford Regional Office
Wilfredo Medina, Eligibility Services Supervisor, Hartford Regional

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.