

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

■■■■ 2024
Signature Confirmation

Client ID ■■■■
Case ID ■■■■
Request # 231895

NOTICE OF DECISION

PARTY

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■■■■
■■■■

PROCEDURAL BACKGROUND

On ■■■■ ■■ 2024, the Department of Social Services (the "Department") issued ■■■■ ■■■■ (the "Appellant") a Notice of Action ("NOA) granting medical benefits under the Husky C - Medically Needy for Aged, Blind, Disabled Spenddown Program ("Husky C - MAABD spenddown") effective ■■■■ ■■ 2024.

On ■■■■ ■■ 2024, the Appellant requested an administrative hearing to contest the Department's decision granting medical coverage under the Husky C - MAABD spenddown program.

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

On ■■■■ ■■ 2024, 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 at the Appellant's request.

The following individuals called in for the hearing:

■■■■ ■■■■ Appellant
Christopher Filek, Department's Representative
Lisa Nyren, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department's decision to grant Medicaid coverage under the Husky C – MAABD spenddown program for the Appellant for the 6-month period [REDACTED] 2024 through [REDACTED] 2024 was correct.

A secondary issue is whether the Department's reduction in the spenddown amount from \$ [REDACTED] to \$ [REDACTED] on [REDACTED] 2024 was correct.

FINDINGS OF FACT

1. The Appellant received Medicaid under the Husky D program through [REDACTED] 2023. (Hearing Record)
2. On [REDACTED] 2024, the Appellant submitted an application requesting continued medical benefits under Medicaid. (Exhibit 4: Eligibility Determination Document)
3. The Appellant is age [REDACTED]. The Appellant is single. The Appellant divorced in [REDACTED] 2021. The Appellant is disabled. (Exhibit 3: SOLQ-I Results Details, Exhibit 4: Eligibility Determination Document and Appellant Testimony)
4. The Appellant lives with her adult son and her ex-husband in a home owned by her brother in [REDACTED]. (Appellant's Testimony)
5. Effective [REDACTED] 2021, the Appellant qualified for Social Security Disability ("SSDI") benefits. Effective [REDACTED] 2024, the Appellant's current gross SSDI benefit equals \$1,293.00 per month. (Stipulated)
6. Beginning [REDACTED] 2023, the Appellant qualified for Medicare Part A and Medicare Part B benefits from the Social Security Administration. The Department pays the Medicare monthly premium on behalf of the Appellant under the Medicare Savings Program – Qualified Medicare Beneficiary ("MSP – QMB") program. (Hearing Record)
7. The medically needy income limit ("MNIL") under the Husky C – Medically Needy Aged, Blind, Disabled program ("Husky C – MAABD") is \$700.00. (Exhibit 6: MAABD – Income Test and Department Representative Testimony)
8. Effective [REDACTED] 2024, the MNIL under the Husky C - MAABD program increased to \$723.00. (Department Representative Testimony)

9. On [REDACTED] [REDACTED] 2024, the Department determined the Appellant's net monthly income exceeded the Husky C – MAABD income limit of \$700.00 and granted Medicaid coverage under the Husky C - MAABD spenddown program effective [REDACTED] [REDACTED] 2024. The spenddown amount is \$492.00 for the period [REDACTED] [REDACTED] 2024 through [REDACTED] [REDACTED] 2024.

\$1,293.00 gross income - \$511.00 standard deduction = \$782.00 monthly net income

\$782.00 monthly net income x 6 month spenddown period = \$4,692.00

\$700.00 MNIL x 6 month spenddown period = \$4,200.00 6-month MNIL income

\$4,692.00 6-month Appellant net income - \$4,200.00 6-month MNIL = \$492.00 Husky C – MAABD spenddown amount

(Hearing Record)

10. On [REDACTED] [REDACTED] 2024, the Department issued the Appellant a Notice of Action granting medical coverage under the Husky C - MAABD spenddown program beginning [REDACTED] [REDACTED] 2024. The notice lists the spenddown period as [REDACTED] [REDACTED] 2024 through [REDACTED] [REDACTED] 2024 with the spenddown amount of \$492.00. The notice states, "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. Being eligible for a spenddown is not considered healthcare coverage." (Exhibit 1: Notice of Action)
11. On [REDACTED] [REDACTED] 2024, the Department determined the Appellant eligible for the special unearned income disregard of \$578.90 rather than the standard unearned income disregard of \$511.00 because she lives with her ex-husband, qualifying her for the special disregard. (Department Representative Testimony and Exhibit 6: MAABD Income Test)
12. On [REDACTED] [REDACTED] 2024, the Department reviewed the Appellant's eligibility for Medicaid under the Husky C – MAABD program due to the change in the unearned income disregard. The Department recalculated the Appellant's monthly applied income as \$714.10 effective [REDACTED] [REDACTED] 2024 resulting in a change in the spenddown amount from \$492.00 to \$84.60.

\$1,293.00 gross income - \$578.90 special unearned income disregard = \$714.10 monthly net income

\$714.10 monthly net income x 6 month spenddown period = \$4,284.60

\$700.00 MNIL x 6 month spenddown period = \$4,200.00 6-month MNIL income

\$4,284.60 6-month Appellant net income - \$4,200.00 6-month MNIL = \$84.60 Husky C – MAABD spenddown amount

(Department Representative Testimony, Exhibit 6: MAABD Income Test, and Exhibit 7: Notice of Action)

13. On [REDACTED] [REDACTED] 2024, the Department determined the Appellant eligible for Medicaid under the Husky C – MAABD program effective [REDACTED] [REDACTED] 2024 due to the increase in the MNIL from \$700.00 to \$723.00, effectively removing the spenddown criteria beginning [REDACTED] [REDACTED] 2024. For the months [REDACTED] 2024 and [REDACTED] 2024, the Appellant remained under the Husky C – MAABD spenddown program. (Department Representative Testimony, Exhibit 6: MAABD Income Test, and Exhibit 7: Notice of Action)
14. On [REDACTED] [REDACTED] 2024, the Department issued the Appellant a notice of action informing her of changes made to her medical coverage. The notice stated the Department closed her medical coverage under the Husky C – MAABD spenddown program effective [REDACTED] [REDACTED] 2024 and granted medical coverage under the Husky C – MAABD program effective [REDACTED] [REDACTED] 2024. The notice listed the spenddown amount as \$84.60 and the spenddown period as [REDACTED] [REDACTED] 2024 through [REDACTED] [REDACTED] 2024. (Exhibit 7: Notice of Action)
15. The Appellant has incurred out of pocket medical expenses due to the loss of Husky D and her current coverage under the MAABD spenddown program. Out of pocket medical expenses include \$150.00 dental cleaning and approximately \$50.98 in prescription costs. The Appellant has not submitted any out of pocket medical cost documentation to the Department at this time. (Appellant's Testimony)
16. 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] [REDACTED] 2024. Therefore, this decision is due not later than [REDACTED] [REDACTED] 2024.

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.

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 1505.10(D)(1) of the Uniform Policy Manual ("UPM") provides as follows:

For AFDC, AABD and MA applications, except for the Medicaid coverage groups noted below in 1510.10(D)(2), the date of application is considered to be the date that a signed application form is received by any office of the Department.

The Department correctly determined the date of application as [REDACTED] 2024.

4. Department policy provides in pertinent part as follows:

Certain individuals applying for AABD or medical Assistance must be disabled to qualify for assistance. The Social Security Administration (SSA) generally is responsible for determining if an individual is disabled. Under certain conditions, the Department makes a determination separate from SSA. UPM § 2530

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

Department policy 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 previous work or any other substantial gainful activity which exists in the national economy.

UPM § 2530.05(A)

The Department correctly determined the Appellant meets the disability criteria under the Husky C - MAABD program(s) because the SSA determined the Appellant as disabled.

5. 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)

“Individuals qualify for Medicaid as medically needy under this coverage group for every month that they meet all of the above condition.” UPM § 2540.96(B)

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)

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 for an assistance unit of one is \$700.00 per month.

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

"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 benefit beginning [REDACTED] 2024 as \$1,293.00 per month.

8. "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 [\$511.00 effective 1/1/24] 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.

UPM § 5030.15(B)(1)(a)

Special Disregard: The disregard is [\$578.90 effective 1/1/24] 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)(c)

On [REDACTED] 2024, the Department incorrectly determined the Appellant qualified for the standard unearned income disregard of \$511.00. Because the Appellant shares her home with at least one person who is not her parent, spouse, or child, specifically her ex-husband, the Appellant qualifies for the special unearned income disregard of \$578.90.¹

9. “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)

On [REDACTED] 2024, the Department incorrectly calculated the Appellant’s applied unearned income as \$782.00 per month. The correct applied unearned income is \$714.10 per month. (\$1,293.00 SSDI - \$578.90 special disregard = \$714.10)

10. “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)

On [REDACTED] 2024, the Department incorrectly calculated the Appellant’s total applied monthly income as \$782.00 per month. The correct total applied monthly income is \$714.10. (\$00.00 applied earned income + \$714.10 applied unearned income + \$00.00 deemed income = \$714.10 total applied income)

11. Department policy provides as follows:

The following method is used to determine the assistance unit’s eligibility in the prospective period:

1. 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:
2. The needs group which is expected to exist in each of the six months is established.
3. An MNIL is determined for each of six months is determined on the basis of:
 - a. The anticipated place of residency of the assistance unit in each of the six months; and

¹ Effective [REDACTED] 2024, the standard disregard increased from \$482.00 to \$511.00, and the special disregard increased from \$549.90 to \$578.90. Program Oversight & Grant Administration Communication [REDACTED]/23

- b. The anticipated composition of the needs group for each of the same six months.
4. The assistance unit's applied income is estimated for each of the six months.
5. 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 – "Spend-down")

UPM § 5520.20(B)

On [REDACTED] 2024, the Department correctly determined the six (6) month period of eligibility under the MAABD spenddown as [REDACTED] 2024 through [REDACTED] 2024.

The Department correctly determined a needs group of one, the Appellant.

For a household of one in the state of Connecticut, the MNIL equals \$4,200.00 for the six-month spenddown period beginning [REDACTED] 2024 ending [REDACTED] 2024. [\$700.00 Monthly MNIL x 6 months = \$4,200.00]

On [REDACTED] 2024, the Department incorrectly determined the six month total applied income as \$4,692.00 for the period [REDACTED] 2024 through [REDACTED] 2024. The correct six month applied income for the period [REDACTED] 2024 through [REDACTED] 2024 equals \$4,284.60. [\$714.10 applied income x 6 months = \$4,284.60]

On [REDACTED] 2024, the Department incorrectly calculated the Appellant's spenddown as \$492.00 for the corresponding 6-month period. The correct 6-month spenddown equaled \$84.60. [\$4,284.60 6-month applied income - \$4,200.00 6-month MNIL = \$84.60]

12. "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] 2024, the Department correctly determined the Appellant must meet a spenddown in order to become eligible for medical benefits under the MAABD. At this time, the Appellant has

not provided proof of out of pocket medical expenses needed to offset the spenddown.

13. "Changes in circumstances are taken into consideration in determining eligibility or benefit level in accordance with rules of this subject and the appropriate prospective or retrospective budgeting method. (cross reference: 6000)" UPM § 1555.35(A)(1)

"Changes resulting in increased benefits are considered in the month the change occurs, provided that: the change is reported and verified in a timely manner." UPM § 1555.35(C)(1)(a)

Department policy provides as follows:

The following method is used to determine the assistance unit's eligibility in the retroactive period: When eligibility is being determined for two or more consecutive months, the assistance unit's applied income for both or all of the months is totaled and compared to the combined MNIL's which are appropriate for the sizes of the needs groups which existed in the months involved.

UPM § 5520.20(A)(2)

On [REDACTED] [REDACTED] 2024, the Department correctly considered changes in the unearned income disregard and MNIL, however, the Department incorrectly calculated the spenddown as \$84.60. The correct spenddown is \$28.20. Additionally, the Department incorrectly determined the spenddown period remained as [REDACTED] [REDACTED] 2024 through [REDACTED] [REDACTED] 2024. The corrected spenddown period is [REDACTED] [REDACTED] 2024 through [REDACTED] [REDACTED] 2024. Due to the transfer of the Appellant's Medicaid eligibility from Husky C – MAABD spenddown program to the Husky C – MAABD program beginning [REDACTED] [REDACTED] 2024, both the spenddown period and spenddown amount should have been adjusted to reflect this change in retroactive medical coverage.

\$714.10 monthly applied income x 2 months ([REDACTED] & [REDACTED] = \$1,428.20 total 2 month applied income

\$700.00 MNIL for [REDACTED] 2024 and [REDACTED] 2024 x 2 months = \$1,400.00 total 2 month MNIL

\$1428.20 applied income - \$1,400.00 MNIL = \$28.20 spenddown

DISCUSSION

Upon termination of Husky D medical coverage, the Appellant filed an application for medical coverage under the Husky C program. On [REDACTED] 2024, the Department correctly determined the Appellant qualified for medical coverage under the Husky C – MAABD spenddown program, however, the amount of the spenddown was incorrectly calculated.

At the administrative hearing on [REDACTED] 2024, the Department reviewed the Appellant's medical coverage with the Appellant and determined the Appellant qualified for the special unearned income disregard resulting in a reduction in the spenddown amount the Appellant was liable to pay. In addition, the Department determined the Appellant eligible for Husky C – AABD program without a spenddown beginning [REDACTED] 2024 due to the annual increase in the MNIL each [REDACTED] 1.

Although the Appellant's medical coverage correctly remains under the Husky C – MAABD spenddown program for [REDACTED] 2024 and [REDACTED] 2024, the amount of the spenddown should have been reduced even further by the Department. The Department continued to calculate a 6 month spenddown. The new retroactive spenddown period is only for two months, [REDACTED] and [REDACTED] and the total spenddown amount is \$28.20.

The Appellant testified she had out of pocket expenses of approximately \$200.00 in dental fees and prescriptions in [REDACTED] and [REDACTED]. The Appellant is encouraged to provide proof of these expenses to the Department in order to meet her spenddown for the 2-month retroactive period.

DECISION

With regards to whether the Department's decision to grant Medicaid coverage under the Husky C – MAABD spenddown program for the Appellant for the period [REDACTED] 2024 through [REDACTED] 2024 was correct, the Appellant's appeal is in part granted and in part denied. The Appellant must meet the spenddown for [REDACTED] 2024 and [REDACTED] 2024, but the spenddown criteria was removed by the Department beginning [REDACTED] 2024.

With regards to whether the Department's reduction in the spenddown amount from \$492.00 to \$84.60 on [REDACTED] 2024 was correct, the Appellant's appeal is granted.

ORDER

1. The Department must correct the 6-month spenddown period from [REDACTED] 2024 to [REDACTED] 2024 to a 2-month retroactive spenddown period for [REDACTED] 2024 to [REDACTED] 2024.

2. The Department must reduce the spenddown amount from \$84.60 to \$28.20 for the 2-month retroactive period.
3. Compliance is due 10 days from the date of this decision.

Lisa A. Nyren

Lisa A. Nyren
Hearing Officer

CC: Brian Sexton, SSOM RO #50
Christopher Filek, FHL RO #50

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.