

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 # 239317

NOTICE OF DECISION

PARTY

	<u>Mailing Address</u>
████████████████████	████████████████████
████████████████████	████████████████████
████████████████████	████████████████████

PROCEDURAL BACKGROUND

On ██████ 2024, the Department of Social Services (the “Department”) issued ██████████ (the “Appellant”) a Notice of Action (“NOA) informing her about a change in 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 placing 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 place the Appellant's Medicaid coverage under the Husky C – MAABD spenddown program was correct.

A secondary issue is whether the Department's calculation of the spenddown amount as \$2,965.00 was correct.

FINDINGS OF FACT

1. On [REDACTED] [REDACTED] 2024, the Department received an application from the Appellant requesting Medicaid coverage under the Home and Community Based Services (“HCBS”) program. (Stipulated)
2. The Department denied the Appellant's [REDACTED] [REDACTED] 2024 request for Medicaid under the HCBS program and granted Medicaid coverage under the Husky C - MAABD spenddown program effective [REDACTED] [REDACTED] 2024 with a six (6) month spenddown period beginning [REDACTED] [REDACTED] 2024 and ending [REDACTED] [REDACTED] 2024. (Hearing Record)
3. On [REDACTED] [REDACTED] 2024, the Department received an application from the Appellant for Medicaid under the HCBS program. The Department determined the Appellant eligible for Medicaid under the HCBS program effective [REDACTED] [REDACTED] 2024 and transferred the Appellant's Husky C MAABD spenddown coverage the Medicaid coverage under the HCBS program beginning [REDACTED] [REDACTED] 2024. (Exhibit 4: Notice of Action)
4. The Appellant never received home care services from the Department. (Appellant's Testimony)
5. On [REDACTED] [REDACTED] 2024, the Department closed the Appellant's Medicaid coverage under the HCBS program effective [REDACTED] [REDACTED] 2024 because the Department did not have any contact with the Appellant for HCBS. (Department Representative Testimony)
6. On [REDACTED] [REDACTED] 2024, the Department determined the Appellant's net monthly income exceeded the Husky C – MAABD income limit of \$723.00 and transferred Medicaid coverage to the Husky C - MAABD spenddown program for [REDACTED] [REDACTED] 2024, the remaining month of the original spenddown period. The spenddown amount is \$2,965.00 for the period [REDACTED] [REDACTED] 2024 through [REDACTED] [REDACTED] 2024. (Hearing Record)
7. On [REDACTED] [REDACTED] 2024, the Department issued the Appellant a Notice of Action transferring medical coverage under the HCBS program to the Husky C -

MAABD spenddown program effective [REDACTED] 2024. The notice lists the spenddown period as [REDACTED] 2024 through [REDACTED] 2024 with the spenddown amount of \$2,965.00. 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)

8. The Appellant is age [REDACTED]-[REDACTED] ([REDACTED]). The Appellant is disabled. (Appellant Testimony)
9. The Appellant lives alone in [REDACTED]. (Appellant's Testimony)
10. Effective [REDACTED] 2024, the Appellant's current gross Social Security Disability Insurance benefit ("SSDI benefit") equals \$2,207.00 per month. (Stipulated)
11. The Appellant receives 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)
12. The medically needy income limit ("MNIL") under the Husky C – Medically Needy Aged, Blind, Disabled program ("Husky C – MAABD") is \$723.00. (Department Representative Testimony and Exhibit 1: Spenddown Calculation)
13. 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] 2024. Therefore, this decision is due not later than [REDACTED] 2024.

CONCLUSIONS OF LAW

1. Section 17b-2(6) of the 2024 Supplement to 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(E)(2)(b) of the Uniform Policy Manual (“UPM”) provides as follows:

A determination of eligibility for assistance under other Medicaid coverage groups is done without requiring a separate application when: Medicaid is denied or discontinued in regard to a particular coverage group.

On [REDACTED] 2024, the Department correctly made a determination of eligibility under the Husky C – MAABD spenddown program without requiring a new application from the Appellant after closing the Appellant’s Medicaid coverage under the HCBS program.

4. “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.” UPM § 2525.15(B)

The Department correctly determined the Appellant meets the age criteria under the Husky C - MAABD program(s) because the Appellant is [REDACTED] years old [REDACTED].

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 \$723.00 per month. However, the MNIL for an assistance unit between [REDACTED] 2023 and [REDACTED] 2024 is \$700.00. The MNIL increased to \$723.00 effective [REDACTED] 2024 and is expected to remain at \$723.00 through [REDACTED] 2025.

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 \$2,207.00 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)

The Department correctly determined the Appellant qualified for the standard unearned income disregard of \$511.00.

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)

The Department correctly calculated the Appellant's applied unearned income as \$1,696.00.

\$2,207.00 SSDI - \$511.00 standard disregard = \$1,696.00

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)

The Department correctly calculated the Appellant's total applied monthly income as \$1,696.00 per month. (\$00.00 applied earned income + \$1,696.00 applied unearned income + \$00.00 deemed income = \$1,696.00 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
 - 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)

"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)

The Department correctly determined the original six (6) month period of eligibility under the MAABD spenddown as [REDACTED] 2024 through [REDACTED] 2024. However, during this period, the Appellant received Medicaid under the HCBS Medicaid waiver for [REDACTED] 2024, [REDACTED] 2024, and [REDACTED] 2024 effectively reducing the spend-down months to three (3) – [REDACTED] 2024, [REDACTED] 2024, and [REDACTED] 2024.

For a household of one in the state of [REDACTED] the MNIL equals \$1,400.00 during [REDACTED] 2024 and [REDACTED] 2024, the first two-months of the spenddown. [\$700.00 Monthly MNIL x 2 months = \$1,400.00]

For a household of one in the state of [REDACTED] the MNIL equals \$723.00 during [REDACTED] 2024, the last month of the spenddown period.

Therefore the three month MNIL equals 2,123.00. (1,400.00 + 723.00 = \$2,123.00)

The three month applied income for [REDACTED] 2024, [REDACTED] 2024, and [REDACTED] 2024 equals \$1,696.00 applied income x 3 months = \$5,088.00.

The Department correctly calculated the Appellant's spend-down as \$2,965.00. \$5,088.00 3-month Applied income – \$2,123.00 3-month MNIL = \$2,965.00

The Department correctly calculated the Appellant's spenddown as \$2,965.00 for the corresponding 6-month period [REDACTED] 2024 through [REDACTED] 2024.

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)

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.

DECISION

With regards to whether the Department's decision to place the Appellant's Medicaid coverage under the Husky C – MAABD spenddown program, the Appellant's appeal is denied.

With regards to whether the Department's calculation of the spenddown amount as \$2,965.00 for the period [REDACTED] [REDACTED] 2024 through [REDACTED] [REDACTED] 2024, the Appellant's appeal is denied.

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.