

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE
HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3725

██████████ 2023
SIGNATURE CONFIRMATION

CASE # ██████████
CLIENT ID # ██████████
REQUEST # 208512

NOTICE OF DECISION

PARTY

██████████
C/O ██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2022, the Department of Social Services (the “Department”) sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) regarding the closure of her HUSKY C Medically Needy Aged, Blind, Disabled (“MAABD”) spend-down effective ██████████, 2023 because the spend-down amount had not been met for two consecutive six-month periods.

On ██████████ 2023, the Appellant requested an administrative hearing to dispute the closure of her spend-down.

On ██████████ 2023, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling an administrative hearing for ██████████ 2023, to be held telephonically with a representative of the Department’s ██████████ regional office.

On ██████████ 2023, the Appellant and her mother, ██████████ requested the hearing scheduled for ██████████ 2023, be rescheduled.

On [REDACTED] 2023, the OLCRAH issued a second notice scheduling the administrative hearing for [REDACTED] 2023, to be held telephonically with a representative of the Department's [REDACTED] regional office.

On [REDACTED] 2023, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-189 inclusive of the Connecticut General Statutes, OLCRAH held the administrative hearing.

The following individuals were present at the hearing:

[REDACTED] Appellant
[REDACTED] Appellant's Mother
Gody Martinez, Department's Representative
Joseph Alexander, Administrative Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly discontinued the Appellant's spend-down due to the spend-down amount not being met within two consecutive six-month periods.

FINDINGS OF FACT

1. The Appellant is [REDACTED] years old and resides with her mother [REDACTED] ("Appellant's mother"). (Hearing Record)
2. The Appellant's two spend-down cycles were from [REDACTED] 2022, through [REDACTED] 2022, and [REDACTED] 2022, through [REDACTED] 2022. (Exhibit 1: Spend-down Welcome Packet issued [REDACTED] 2022, Exhibit 4: Case Note dated [REDACTED] 2023)
3. The Appellant did not meet the first spend-down amount for the period of [REDACTED] 2022, through [REDACTED] 2022. (Hearing Record)
4. On [REDACTED] 2022, the Department issued a Notice of Spend-down Amount Change to the Appellant informing her that the spend-down amount for [REDACTED], 2022, through [REDACTED] 2022, would be \$1,293.00. The Department determined the amount of the Spend-down using the following calculation(s):

\$1,277.50 gross monthly unearned income (\$951.00 SSDI + \$326.50 Pension) -
\$409.00 unearned income disregard = \$868.50 net income

\$868.50 net income - \$653.00 net income limit = \$215.50 monthly income in excess
of net income limit

\$215.50 monthly income in excess of net income limit x 6 months (standard spend-down cycle length) = \$1,293.00 total spend-down amount.
 (Exhibit 2: Notice of Spend-down Amount Change dated ██████████ 2022, Hearing Record)

5. On ██████████ 2022, the Department received the following expenses from the Appellant which were forwarded to the DSS Scanning Center for review:

<u>Provider Name:</u>	<u>Date of Purchase/Service:</u>	<u>Product/Service:</u>	<u>Total Expense:</u>
██████████	7/13/22	Dental Care	\$118.88
██████████	10/28/22	Intimate Wipes, Incontinence Pads, Baneful Dog Food	\$44.52
N/A	9/17/22	HD Houdel 2 Pack Disposable T-Mouthpiece 7" Tubing and 6" Reservoir	\$15.99
N/A	11/?/22	N/A	N/A
██████████	11/08/22	Drive Power Neb Ultra Compressor	\$30.69
██████████	11/08/22	Robitussin Max Strength Cough and Congestion Medicine, Colgate Mouth Sore Rinse, Nature Nate's Honey, Three Dog Bakery Dog Treats	\$36.87
██████████	11/08/22	Dental Care	\$330.00
██████████m	11/10/222	Compression Socks	\$30.95
N/A	11/15/22	Tylenol Extra Strength, Antibacterial Hand Wipes	\$36.49
██████████	11/23/22	Incontinence Pads, Dog Treats, Dog Food, Self-Foaming Skin Washcloth	\$65.34
██████████	11/29/22	Ear Relief Drops	\$8.79

██████████	N/A (Appears as "1 1/2")	Dental Floss, Mirror, TIDE, Mr. Clean Magic Eraser, Clorox Wipes, Saltine Crackers, "Other products"	\$56.00
██████████	12/10/22	Liquid Hand Soap, Incontinence Pads, Denture Cleanser	\$37.33
██████████	12/11/22	Tylenol, Shampoo, "Crossed Out Product"	\$43.39
N/A	12/?/22	Knives	\$125.00
██████████	12/15/22	7' Supply Tube (5 pack)	\$7.50
██████████	12/15/22	Earwax Removal Kit	\$8.12
██████████	N/A	Fingertip Pulse Oximeter	\$19.99

6. On ██████████ 2022, a NOA was sent to the Appellant regarding the closure of her spend-down as the amount had not been met within two consecutive six-month cycles. (Exhibit 3: NOA dated ██████████/22)
7. On ██████████ 2023, expenses were reviewed, and the following were applied to the Appellant's Spend-down:

<u>Provider Name:</u>	<u>Date of Purchase/Service:</u>	<u>Amount Applied:</u>
██████████	09/17/22	\$16.90
██████████	12/15/23	\$15.62
██████████	10/28/22	\$4.48
██████████	11/08/22	\$20.58
██████████	11/23/22	\$29.33
██████████	12/10/22	\$21.47
██████████	12/11/22	\$30.43
Health Products For You	11/08/22	\$30.69
██████████	11/08/22	\$330.00
██████████	11/29/22	\$8.79
	Total	\$508.29

(Exhibit 4: Case Note dated ██████████ 2023)

8. On January 3, 2023, expenses were reviewed, and the following were rejected:

<u>Provider Name</u>	<u>Date of Purchase/Service:</u>	<u>Amount:</u>	<u>Reason for Rejection:</u>
N/A	7/13/22	\$538.20	Name and contact of provider missing
██████████ ██████████	N/A	\$110.00	Date of service missing
N/A	N/A	\$12.58	Provider name and date of service missing
██████████	N/A	\$19.99	Date of service missing
██████████	10/28/22	\$27.04	Document not acceptable proof of medical expense
████████████████████	11/10/22	\$30.85	Document not acceptable proof of medical expense
██████████	11/12/22	\$21.26	Receipt does not show item or service purchased
██████████	12/06/22	\$125.00	Item/service purchased is not medical expense
██████████	12/11/22	\$17.09	Item/service purchased is not medical expense
██████████	N/A	\$53.56	Date of service missing
██████████	N/A	\$142.00	Non -medical expense

(Exhibit 4: Case Note dated [REDACTED] 2023, Exhibit 6: Notice of Unusable Spend-down Expenses)

9. On [REDACTED], 2023, the Department determined the Appellant's spend-down would remain closed as the applied expenses totaling \$508.29 were not enough to offset the total spend-down amount of \$1,293.00. (Exhibit 4: Case Note dated [REDACTED] 2023)
10. 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 hearing request was received on [REDACTED] 2023, making this decision due no later than [REDACTED] 2023. However, due to the rescheduling of this hearing an additional twenty-three (23) days have been added making this decision due no later than [REDACTED] 2023. (Hearing Record)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes authorizes the Commissioner of the Department of Social Services to administer the Medicaid program pursuant to Title XIX of the Social Security Act.
2. "The Department's uniform policy manual ("UPM") 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. UPM § 2015.05 specifies the assistance unit in AABD and MAABD consists of only one member. In these programs, each individual is a separate assistance unit.

The Department correctly determined the Appellant is an assistance unit of one member.

4. UPM § 2540.01(A) provides that in order to qualify for MA, an individual must meet the conditions of at least one coverage group.
5. UPM § 2540.01(C) provides for Medically Needy Eligibility. Generally, individuals qualify for MA as medically needy if: (1) their income or assets exceed the limits of the AFDC or AABD programs; and (2) their assets are within the medically needy asset limit; and (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.

6. UPM § 4530.15 (A)(B) provides for the Medically Needy income Limit (“MNIL”) as follows. (A) Provisions. (1) A uniform set of 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 (b) the region of the state in which the assistance unit resides. (B) Standard of Assistance. The Medically Needy Income Limit is 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.

Effective July 1, 2022, the three geographic TFA regions (A, B, & C) became one statewide standard as a result of the passing of Public Act No. 22-118. This change means that DSS will use a single statewide standard for the TFA Standard of Need rather than using different amounts for different regions of the state. This will make TFA payment standards, TFA grant levels, and the HUSKY C Medically Needy Income Limit (MNIL) uniform across the state.

The Department correctly determined the MNIL for an assistance unit of one is \$653.00 using the following calculation: TFA payment standard for a household of one \$456.00 x 1.43 (143%) = \$652.08 (rounded up to \$653.00)

7. UPM § 5050.13(A)(1)(2) provides for the treatment of specific types of benefits (SSA, SSI, V.A.). (A) Social Security and Veteran’s Benefits. (1) Income from these sources is treated as unearned income in all programs. (2) This income is subject to unearned income disregards in the AABD and MAABD programs.

The Department correctly determined the Appellant’s monthly \$951.00 Social Security Disability (“SSDI”) benefit is considered countable income for determining eligibility for Medicaid.

8. UPM § 5050.09(A) provides for the treatment of specific types of income (Annuity, Pension and Trust Payments). (A) Payments received by the assistance unit from annuity plans, pensions and trusts are considered unearned income.

The Department correctly determined the Appellant’s monthly \$326.50 pension is considered countable income for determining eligibility for Medicaid.

9. UPM § 5030.15(A) provides for income disregards and specifies that except as provided in section 5030.15(d)., unearned income disregards are subtracted from the unit members total gross unearned income.

The Department correctly determined the Appellant's monthly income of \$1,277.50 is subject to an income disregard.

10. UPM § 5030.15(B)(1)(a)(b) provides for Amount and Duration of the Disregards. The Department uses the following unearned income disregards, as appropriate under the circumstances described: (a) Standard Disregard. The disregard is \$227.00 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. (b) Boarding Home Disregard. The disregard is \$134.70 for those individuals who pay for room and board in licensed boarding homes or adult family living homes. 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.

The Department correctly determined the Appellant was eligible for a Standard Disregard of \$409.00 for ██████████ 2022, through ██████████ 2022.

11. UPM § 5520.20(B)(1) provides for Income Eligibility Tests. The following method is used to determine the assistance unit's eligibility in the prospective period: 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.
12. UPM § 5520.20(B)(5) provides for Income Eligibility Tests. 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.
13. UPM § 5520.25(B) provides Income Eligibility Tests. Medically Needy Cases. 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.

The Department correctly determined the Appellant's applied income (\$868.50) exceeds the MNIL (\$653.00) therefore she was required to meet the spend-down amount before becoming eligible for Medicaid.

The Department correctly determined the Appellant's six-month spend-down amount is \$1,293.00 for the period of [REDACTED], 2022, through [REDACTED] 2022. (Refer to calculations in Finding of Fact # 3)

14. UPM § 5520.25(B) provides Income Eligibility Tests. Medically Needy Cases. 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 a 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 members; (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 expense 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. Medicaid 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 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.

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.

15. UPM § 5520.30(B)(3) provides that when the amount of incurred expense is insufficient to offset the excess income, no eligibility exists for that six -month period.

The Department correctly determined the Appellant had not submitted sufficient medical expenses to offset her excess income therefore she did not meet her spend-downs for either spend-down cycle (██████████ 2022, through ██████████ 2022, and ██████████ 2022, through ██████████ 2022)

The Department correctly discontinued the Appellant's spend-down effective ██████████, 2023.

DECISION

The Appellant's appeal is **DENIED**

Joseph Alexander
Administrative Hearing Officer

CC: Annjerry Garcia, Operations Manager, DSS, Bridgeport Regional Office
Robert Stewart, Operations Manager, DSS, Bridgeport Regional Office
Jamel Hilliard, Operations Manager, DSS, Bridgeport Regional Office
Gody Martinez, Hearing Liaison, DSS, Bridgeport Regional Office

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 §4-1181a (a) of the Connecticut General Statutes.

Reconsideration requests should include specific grounds for the request: for example, indicate what error of fact or law, 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 06105-3725.

RIGHT TO APPEAL

The appellant has the right to appeal this decision to Superior Court with **45** days of the mailing of this decision, or **45** days after the agency denies 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 06105-3725. 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 her 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.