

STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105-3730

██████████ 2021
Signature Confirmation

Application ID # ██████████
Client ID # ██████████
Hearing # 166463

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████, 2020, the Health Insurance Exchange Access Health Connecticut (“AHCT”), Connecticut’s Health Insurance Exchange, issued ██████████ ██████████ (the “Appellant”) a notice of action denying Husky D/Adult Medicaid.

On ██████████, 2020, the Appellant requested an administrative hearing to contest the denial of such benefits.

On ██████████ 2020, the Office of Legal Counsel, Regulations and Administrative Hearings (“OLCRAH”) issued a notice to the Appellant, scheduling the administrative hearing for ██████████, 2020.

On ██████████, 2020, in accordance with sections 17b-60, 17b-264 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, Title 45 Code of Federal Regulations (“CFR”) §§ 155.505(b) and 155.510 and/or 42 CFR § 457.113, OLCRAH held an administrative hearing by telephone.

The following individuals participated in the administrative hearing:

██████████, Appellant
██████████, Appellant’s friend and Russian interpreter
Cathy Davis, AHCT Representative

Scott Zuckerman, Hearing Officer

STATEMENT OF ISSUE

The issue to be decided is whether ACHT correctly denied the Appellant's healthcare coverage under the Medicaid/Husky D program.

FINDINGS OF FACT

1. In [REDACTED] the Appellant entered the United States on a Visa. (Appellant's testimony)
2. The Appellant has a passport from Ukraine. (Appellant's testimony and Exhibit 4: Application # [REDACTED])
3. The Appellant has applied for his Lawful Permanent Resident card. (Appellant's testimony)
4. On [REDACTED], 2020, AHCT received the Appellant's application for HUSKY D/Medicaid requesting medical insurance for himself. (Hearing Summary and Exhibit 4: application # [REDACTED])
5. The Appellant must obtain a Lawful Permanent Resident Card and have that status for five years to be eligible for Medicaid. (AHCT testimony)
6. On [REDACTED], 2020, AHCT sent the Appellant a Notice stating that he is not a US citizen and does not have an eligible immigration status for applying for healthcare through the Exchange. (Exhibit 2: Notice, [REDACTED]/2020)

CONCLUSIONS OF LAW

1. The Commissioner of Social Services is authorized to take advantage of the medical assistance programs provided in Title XIX, entitled "Grants to States for Medical Assistance Programs", contained in the Social Security Amendments of 1965 and may administer the same in accordance with the requirements provided therein, including the waiving, with respect to the amount paid for medical care, of provisions concerning recovery from beneficiaries or their estates, charges and recoveries against legally liable relatives, and liens against property of beneficiaries. Conn. Gen. Stat. § 17b-260.
2. All of the provisions of sections 17b-22, 17b-75 to 17b-77, inclusive, 17b-79 to 17b-83, inclusive, 17b-85 to 17b-103, inclusive, and 17b-600 to 17b-604, inclusive, are extended to the medical assistance program except such provisions as are inconsistent with federal law and regulations governing Title XIX of the Social Security Amendments of 1965 and sections 17b-260 to 17b-262, inclusive, 17b-264 to 17b-285, inclusive, and 17b-357 to 17b-361, inclusive. Conn. Gen. Stat. § 17b-264.

3. Title 45, Code of Federal Regulations (“C.F.R.”) § 155.110 (a) provides that the State may elect to authorize an Exchange established by the State to enter into an agreement with an eligible entity to carry out one or more responsibilities of the Exchange. Eligible entities are: (1) An entity: (i) Incorporated under, and subject to the laws of, one or more States; (ii) That has demonstrated experience on a State or regional basis in the individual and small group health insurance markets and in benefits coverage; and (iii) Is not a health insurance issuer or treated as a health insurance issuer under subsection (a) or (b) of section 52 of the Code of 1986 as a member of the same controlled group of corporations (or under common control with) as a health insurance issuer; or (2) The State Medicaid agency, or any other State agency that meets the qualifications of paragraph (a)(1) of this section.
4. Title 45 of the CFR § 155.505(c)(1) provides that exchange eligibility appeals may be conducted by a State Exchange appeals entity or an eligible entity described in paragraph (d) or this section that is designated by the Exchange, if the Exchange establishes an appeals process in accordance with the requirements of this subpart.
5. 42 C.F.R. § 435.406 (a)(2)(i) provides that except as specified in 8 U.S.C. 1612(b)(1) (permitting States an option with respect to coverage of certain qualified non-citizens), qualified non-citizens as described in section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641) (including qualified non-citizens subject to the 5-year bar) who have provided satisfactory documentary evidence of Qualified Non-Citizen status, which status has been verified with the Department of Homeland Security (DHS) under a declaration required by section 1137(d) of the Act that the applicant or beneficiary is a non-citizen in a satisfactory immigration status.
6. Title 8 of the United States Code (“U.S.C.”) § 1641 (b) provides that for the purposes of this chapter, the term “qualified alien” means an alien who, at the time the alien applies for, receives, or attempts to receive a Federal public benefit, is-
 1. An alien who is lawfully admitted for permanent residence under the Immigration and nationality Act [8 U.S.C. 1101 et seq.],
 2. An alien who is granted asylum under section 208 of such Act [8 U.S.C. 1158],
 3. A refugee who is admitted to the United States under section 207 of such Act [8 U.S.C. 1157],
 4. An alien who is paroled into the United States under section 212(d)(5) of such Act [8 U.S.C. 1182(d)(5)] for a period of at least 1 year,
 5. An alien who deportation is being withheld under section 243(h) of such Act [8 U.S.C. 1253] 9as in effect immediately before the effective date of section 307 of division C of Public Law 104-208) or section 241(b)(3) of such Act [8U.S.C. 1231(b)(3)] (as amended by section 305(a) of division C of Public Law 104-208),
 6. An alien who is granted conditional entry pursuant to section 203(a)(7) of such Act [8 U.S.C. 1153(a)(7) as in effect prior to April 1, 1980, or
 7. An alien who is a Cuban and Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980).

AHCT has the authority to verify the Appellant's citizenship status for the purpose of determining whether the Appellant is a qualified alien.

AHCT correctly determined that, at the time of his application, the Appellant did not have qualified alien status.

7. 8 U.S.C. § 1613 addresses the five-year limited eligibility of qualified aliens for Federal means-tested public benefit. Section (a) notes that notwithstanding any other provision of law and except as provided in subsections (b), (c), and (d) of this section, an alien who is a qualified alien (as defined in section 1641 of this title) and who enters the United States on or after August 22, 1996, is not eligible for any Federal means-tested public benefit for a period of 5 years beginning on the date of the alien's entry into the United States with a status within the meaning of the term "qualified alien."

The Appellant is subject to a five-year bar from participation with respect to the Medicaid program with a status as a qualified alien.

8. The agency must verify the declaration of citizenship or satisfactory immigration status under paragraph (a)(1) or (2) of this section in accordance with § 435.956. 42 C.F.R. § 435.406 (c).
9. **42 C.F.R. § 435.956 Verification of other non-financial information.** (a) *Citizenship and immigration status.* (1)(i) The agency must—(A) Verify citizenship status through the electronic service established in accordance with §435.949 or alternative mechanism authorized in accordance with §435.945(k), if available; and (B) Promptly attempt to resolve any inconsistencies, including typographical or other clerical errors, between information provided by the individual and information from an electronic data source, and resubmit corrected information through such electronic service or alternative mechanism.
10. For the purposes of the exemption from the five-year waiting period described in 8 U.S.C. 1613, the agency must verify that an individual is an honorably discharged veteran or in active military duty status, or the spouse or unmarried dependent child of such person, as described in 8 U.S.C. 1612(b)(2) through the electronic service described in §435.949 or alternative mechanism authorized in accordance with §435.945(k). If the agency is unable to verify such status through such service the agency may accept self-attestation of such status. 42 C.F.R. § 435.956 (a)(3).

AHCT correctly determined the Appellant is not a citizen of the United States.

AHCT correctly determined that the Appellant is not a qualified alien.

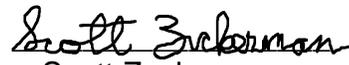
AHCT correctly determined that the Appellant is ineligible to participate in the Medicaid program, as he had not resided in the United States for

a minimum of five years with the status of lawful permanent resident or other qualified alien status per Title 8 of the United States Code (“U.S.C.”) § 1641 (b).

AHCT correctly denied the Appellant’s HUSKY D/Medicaid for Adults coverage.

DECISION

The Appellant’s appeal is **DENIED**.


Scott Zuckerman
Fair Hearings Officer

C: Cathy Davis, Access Health CT

**Modified Adjusted Gross Income (MAGI) Medicaid and
Children's Health Insurance Program (CHIP)
Right to Request Reconsideration**

For denials or reductions of MAGI Medicaid and CHIP, 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 Legal Counsel, Regulations, and Administrative Hearings, 55 Farmington Avenue, Hartford, CT 06105-3725.

Right to Appeal

For denials, terminations or reductions of MAGI Medicaid and CHIP eligibility, 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 his designee in accordance with §17b-61 of the Connecticut General Statutes. The Agency's decision to grant an extensions 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.