

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

██████████ 2016  
Signature Confirmation

Application # ██████████  
Hearing Request # 725295

NOTICE OF DECISION

PARTY

██████████  
██████████  
██████████

PROCEDURAL BACKGROUND

On ██████████ 2015, the Health Insurance Exchange Access Health CT (“AHCT”) sent ██████████ (“The Appellant”) a Notice of Action denying Medicaid/Husky D healthcare coverage.

On ██████████ 2015, The Appellant requested a hearing to contest the denial of Medicaid/Husky D benefits.

On ██████████ 2015 the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2016.

On ██████████ 2015 the Appellant requested a reschedule of the administrative hearing.

On ██████████ 2015 OLCRAH issued a notice rescheduling the administrative hearing for ██████████ 2016.

On ██████████ 2016 in accordance with sections 17b-60, 17b-61, and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing. The following individuals were present at the hearing:

██████████ Appellant

Hamza Amami, Interpreter  
Debra Henry, Health Insurance Exchange Access Health CT Representative  
Marc Ostroski, Hearing Officer

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether AHCT correctly denied the Medicaid/Husky D healthcare insurance.

### **FINDINGS OF FACT**

1. On [REDACTED] 2015 the Appellant applied for medical insurance for herself. (Ex. A: Application [REDACTED])
2. The Appellant files taxes as head of household. (Ex. A: Application [REDACTED])
3. The Appellant is a lawful permanent resident and entered the country as a refugee from Iraq on [REDACTED] 2012. (Appellant's testimony, Ex. E: SAVE printout)
4. During the application the Appellant reported household income of \$1684.80 per month (Ex. A: Application [REDACTED])
5. On [REDACTED] 2015 AHCT sent a letter to the Appellant denying HUSKY D Medicaid over income and granting a Qualified Health Plan with Advanced Premium Tax Credit of \$258.00. (Ex. B: Notice of Action dated [REDACTED]/15)
6. The Federal Poverty Limit ("FPL") for a family of one at the time of enrollment was \$11,770.00 per year which converted equals \$981.00 (\$11,770.00/12=\$980.83 rounded up) per month. (Federal Register).

### **CONCLUSIONS OF LAW**

1. Section § 17b-260 of the Connecticut General Statutes ("CGS") provides for acceptance of federal grants for medical assistance. 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.

2. Section § 17b-264 of the CGS provides for the extension of other public assistance provisions. 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
3. Title 45 of the Code of Federal Regulations (“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) of this section that is designated by the Exchange, if the Exchange establishes an appeals process in accordance with the requirements of this subpart.
4. 45 CFR § 155.505(d) provides that an appeals process established under this subpart must comply with § 155.110(a).
5. 45 CFR § 155.110(a)(2) 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: the State Medicaid agency, or any other State agency that meets the qualification of paragraph (a)(1) of this section.
6. Title 8 of the United States Code (“U.S.C”) § 1613 (a)(b)(1)(A) Provides for the Five-year limited eligibility of qualified aliens for Federal means-tested public benefit
  - (a) In general 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”.
  - (b) Exceptions The limitation under subsection (a) of this section shall not apply to the following aliens:
    - (1) Exception for refugees and asylees
      - (A) An alien who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act [8 U.S.C. 1157].
7. The Appellant is a refugee and therefore falls under the exception to the five year requirement for eligibility for federal means tested public benefits.

8. 42 CFR § 435.603(d)(1) provides for the construction of the modified adjusted gross income (“MAGI”) household. *Household income—(1) General rule.* Except as provided in paragraphs (d)(2) through (d)(4) of this section, household income is the sum of the MAGI-based income, as defined in paragraph (e) of this section, of every individual included in the individual's household.
9. The Appellant files as head of household. She is a MAGI household of one person.
10. 42 CFR §435.603(d) provides for the application of the household’s modified adjusted gross income (“MAGI”). The household’s income is the sum of the MAGI-based income, as defined in paragraph (e) of this section, of every individual included in the individual’s household. Effective January 1, 2014, in determining the eligibility of an individual using MAGI-based income, a state must subtract an amount equivalent to 5 percentage points of the Federal Poverty Level for the applicable family size only to determine the eligibility of an individual for medical assistance under the eligibility group with the highest income standard using MAGI-based methodologies in the applicable Title of the Act, but not to determine eligibility for a particular eligibility group.
11. Five percent of the FPL for a family of one is \$588.50 ( $\$11,770.00 \times .05$ ) per year which was converted to \$49.04 ( $\$588.50/12$ ) per month.
12. The Appellant’s household’s countable MAGI for a household of one based on the reported income at time of application was \$1635.76 ( $\$1684.80 - \$49.04$  per month).
13. 42 CFR § 435.119 provides that Medicaid health coverage is available for individuals age 19 or older and under age 65 at or below 133 percent of the Federal Poverty Limit (“FPL”).

(b). Eligibility. Effective January 1, 2014, the agency must provide Medicaid to individuals who:

- 1) Are age 19 or older and under age 65;
- 2) Are not pregnant;
- 3) Are not entitled to or enrolled for Medicare benefits under part A or B of the title XVIII of the Act
- 4) Are not otherwise eligible for and enrolled for mandatory coverage under a State’s Medicaid State plan in accordance with subpart B of this part; and

- 5) Have household income that is at or below 133 percent FPL for the applicable family size.
14. One Hundred thirty three percent of the FPL for a household of one is \$1304.73 (\$981.00 x 1.33).
15. The Appellant's household's countable MAGI household income of \$1635.76 per month exceeds the income threshold for one, \$1304.73.
16. The Appellant is over income for Medicaid/HUSKY D medical insurance.
17. The Department was correct to deny Medicaid for the Appellant's household.

### **DISCUSSION**

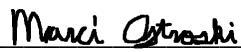
During the hearing the Appellant raised concerns regarding prior Medicaid eligibility with AHCT. This decision can only address the action taken by AHCT on [REDACTED] 2015. AHCT did testify during the hearing that the Appellant's previous Medicaid coverage was active through [REDACTED] of 2015. This decision addresses the Appellant's eligibility in the first month following that closure.

HUSKY D Medicaid eligibility is based on Modified Adjusted Gross Income. Based on the income reported by the Appellant at the time of the application the Appellant is over income and therefore not eligible for the HUSKY D program. The Appellant testified during the hearing that her income has decreased since the application in [REDACTED] 2015. She is encouraged to reapply with Access Health with her new wage verifications for ongoing coverage.

AHCT's hearing summary and AHCT's testimony during the hearing also referred to the Appellant's citizenship status as a reason for her HUSKY D denial. The Appellant entered the country as a refugee and as such per United States Code she is exempt from the five year residency requirement for legal permanent residents seeking Medicaid. Her citizenship status does not impact her Medicaid eligibility.

**DECISION**

The Appellant's appeal is **DENIED**.

  
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Marci Ostroski  
Fair Hearings Officer

Pc: Debra Henry, Health Insurance Exchange Access Health CT

## **APTC/CSR**

### **Right to Appeal**

For APTC or CSR eligibility determinations, the Appellant has the right to appeal to the United States Department of Health and Human Services (HHS) within 30 days of the date of this decision. To obtain an Appeal Request Form, go to <https://www.healthcare.gov/can-i-appeal-a-marketplace-decision/> or call 1-800-318-2596 (TTY: 1-855-889-4325). HHS will let the Appellant know what it decides within 90 days of the appeal request. There is no right to judicial review of the decision by HHS.

There is no right to request reconsideration for denials or reductions of Advanced Premium Tax Credits (APTC) or Cost Sharing Reduction (CSR).

## **MEDICAID AND 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.

There is no right to request reconsideration for denials or reductions of Advanced Premium Tax Credits (APTC) or Cost Sharing Reduction (CSR).

### **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, 55 Elm Street, 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 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.

