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

[redacted] **2016**
Signature Confirmation

Client ID # [redacted]
Application # [redacted]
Hearing Request # 730713

NOTICE OF DECISION

PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted] 2015, the Health Insurance Exchange Access Health CT ("AHCT") terminated [redacted] (the "Appellant") Husky B healthcare coverage effective [redacted] 2015.

On [redacted] 2015, the Appellant requested a hearing to contest the termination of the Husky B coverage.

On [redacted] 2015, the Office of legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for [redacted] 2015.

On [redacted] 2015, in accordance with sections 17b-60, 17b-264 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, chapter 45 Code of Federal Regulations ("CFR") §§ 155.505(b) and 155.510 and/or 42 CFR § 457.1130, OLCRAH held an administrative hearing. The following individuals were present at the hearing:

[redacted] Appellant
Debra Henry, Access Health CT Representative
Carla Hardy, Hearing Officer

The hearing record was held open for the submission of additional evidence. Evidence was received from the Appellant and AHCT. The hearing record closed [redacted] 2016.

STATEMENT OF THE ISSUE

The issue to be decided is whether Access Health CT correctly terminated the Husky B medical coverage.

FINDINGS OF FACT

1. The Appellant's household consists of himself, his spouse, and their three children, [redacted] (Exhibit A: Application # 1816950, [redacted]/15).

2. The Appellant's three children are recipients of Husky B, band 2 medical coverage (Appellant's Testimony, Exhibit C: 90 Day Final Determination Notice, [redacted]/15).

3. On [redacted] 2015, AHCT sent a notice to the Appellant requesting proof of his household's income (AHCT's Testimony).

4. The Appellant sent proof of his household's income to AHCT via certified mail (Appellant's Testimony).

5. On [redacted] 2015, AHCT received proof of the Appellant's income (AHCT's Testimony, Appellant's Exhibit 2: Certified mail receipt, [redacted]/15).

6. The Husky B, band 2 coverage was terminated effective [redacted] 2015 (AHCT's Testimony).

7. The children were without Husky B, band 2 coverage during [redacted] and [redacted] 2015 (AHCT's Testimony).

8. The Husky B, band 2 coverage was reinstated effective [redacted] 2015 (AHCT's Testimony).

9. On [redacted] 2015, AHCT sent a notice to the Appellant terminating the Husky B, band 2 coverage effective [redacted] 2015 (Exhibit C: 90 Day Final Determination Notice, [redacted]15).

10. On [redacted] 2015, AHCT sent a notice to the Appellant approving the Husky B, band 2 coverage effective [redacted] 2015 (Exhibit E: Change Reporting Eligibility Decision, [redacted]/15).

11. On [redacted] 2015, AHCT sent a notice to the Appellant requesting proof of his household's annual income in order to confirm eligibility (Exhibit D: Additional Verification Required notice, [redacted]/15).

12. On [redacted] 2015, AHCT sent a notice to the Appellant reminding him that proof of his household's income was needed in order to confirm eligibility (Exhibit F: Reminder-Additional Documents Needed notice, [redacted]/15).

13. On [redacted] 2015, AHCT sent another notice to the Appellant reminding him that proof of his household's income was needed in order to confirm eligibility (Exhibit G: Reminder-Additional Documents Needed Notice, [redacted]/15).

14. On [redacted] 2015, AHCT sent another notice to the Appellant reminding him that proof of his household's income was needed in order to confirm eligibility (Exhibit H: Reminder-Additional Documents Needed Notice, [redacted]/15).

15. On [redacted] 2015, AHCT sent a notice to the Appellant terminating Husky B, band 2 coverage effective [redacted] 2015 (Exhibit I: 90 Day Final Determination Notice, [redacted]/15).

16. On [redacted] 2015, AHCT sent a notice to the Appellant approving his children for Husky B, band 2 effective [redacted] 2015 (Exhibit J: Change Reporting Eligibility Decision Notice, [redacted]/15).

17. As of the date of this hearing, the children were still active Husky B, band 2 coverage (AHCT's Testimony).

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. 42 CFR 435.603(f)(1)(2)(iii)(3)(iii) provides for the construction of the modified adjusted gross income ("MAGI") household.

7. The Appellant is married and files a joint return. He claims three tax dependents. He has a MAGI household of five persons.

8. 45 CFR § 155.315(f)(2) provides for the verification process related to eligibility for enrollment in a QHP through the Exchange, except as otherwise specified in this subpart, for an applicant for whom the Exchange cannot verify information required to determine eligibility for enrollment in a QHP through the Exchange, advance payments of the premium tax credit, and cost-sharing reductions, including when electronic data is required in accordance with this subpart but data for individuals relevant to the eligibility determination are not included in such data sources or when electronic data from IRS, DHS, or SSA is required but it is not reasonably expected that data sources will be available within 1 day of the initial request to the data source, the Exchange:

   (1) Must make a reasonable effort to identify and address the causes of such inconsistency, including through typographical or other clerical errors, by contacting the application filer to confirm the accuracy of the information submitted by the application filer;
   (2) If unable to resolve the inconsistency through the process described in paragraph (f)(1) of this section, must—
      (i) Provide notice to the applicant regarding the inconsistency; and
      (ii) Provide the applicant with a period of 90 days from the date on which the notice described in paragraph (f)(2)(i) of this section is sent to the applicant to either present satisfactory documentary evidence via the channels available for the submission of an

application, as described in §155.405(c), except for by telephone through a call center, or otherwise resolve the inconsistency.

9. AHCT correctly issued a notice requesting proof of the Appellant's annual income.

10. 45 CFR § 155.315(f)(5) provides in part that If, after the period described in paragraph (f)(2)(ii) of this section, the Exchange remains unable to verify the attestation, the Exchange must determine the applicant's eligibility based on the information available from the data sources specified in this subpart.

11. The Appellant complied with the request for additional information and submitted proof of his annual income on [redacted] 2015.

12. 45 CFR § 155.5209(a)(b) provides in part that the Exchange and the appeals entity must allow an applicant or enrollee to request an appeal within-
    1. 90 days of the date of the notice of eligibility determination; or
    2. A timeframe consistent with the state Medicaid agency's requirement for submitted fair hearing requests

13. Uniform Policy Manual ("UPM") 1570.05(H)(1)(a) provides that a request for a Fair Hearing for medical assistance must be made within 60 days from the date that the Department mails a notice of action.

14. The Appellant did not request a hearing within 60 days from the date that the Husky B, band 2 coverage was terminated on [redacted] 2015.

15. Title 42 CFR § 431.245 provides for notifying the applicant or beneficiary of a State agency decision; The agency must notify the applicant or beneficiary in writing of—
    (a) The decision; and
    (b) His right to request a State agency hearing or seek judicial review, to the extent that either is available to him.

16. 42 CFR § 431.211 provides for advance notice; The State or local agency must send a notice at least 10 days before the date of action, except as permitted under §§ 431.213 and 431.214.

17. AHCT did not provide verification that the Appellant was notified of the termination of the Husky B, band 2 coverage effective [redacted] 2015.

18. AHCT incorrectly terminated the Husky B coverage effective [redacted] 2015.

DISCUSSION

AHCT sent a notice to the Appellant requesting proof of his household's annual income. The Appellant complied with the request and provided copies of paystubs on [redacted] 2015. Even though the Appellant submitted the required verification, the Husky B coverage was terminated effective [redacted] 2015. AHCT took action and reinstated medical coverage effective [redacted] 2015 but left [redacted] and [redacted] 2015 in terminated status.

The Appellant received additional notices in [redacted] 2015. One proposed termination of coverage effective [redacted] 2015, another approved coverage effective [redacted] 2015. The Husky B, band 2 coverage was not terminated in [redacted] and remained in approved status. There was continuous Husky B, band 2 coverage from [redacted] 2015 through the date of this hearing. The Appellant's frustration with the multiple and confusing notices that he received is warranted. He requested assurance that he would not receive additional termination notices. Neither AHCT nor this Hearing Officer can guarantee that additional notices won't be mailed in the future.

The Appellant's children incorrectly lost medical coverage in [redacted] and [redacted] 2015 for which they were eligible. AHCT incorrectly terminated Husky B, band 2 coverage effective [redacted] 2015.

DECISION

The Appellant's Appeal is **GRANTED** in part and **DENIED** in part.

The appeal is granted because AHCT incorrectly terminated Husky B, band 2 coverage effective [redacted] 2015.

The appeal is denied because AHCT proposed termination of the Husky B, band 2 coverage but did not terminate the coverage in [redacted] 2015.

ORDER

1. AHCT shall reinstate Husky B, band 2 coverage for [redacted] and [redacted] 2015.

2. Compliance with this order shall be submitted to the undersigned no later than [redacted] 2016.

Carla Hardy

Carla Hardy
Hearing 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.

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.