

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 # 732240

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ██████████ 2015, the Department of Social Services (“the Department”) sent a Notice of Action discontinuing ██████████, (“The Appellant’s”) Medicaid/HUSKY A Transitional Medical Assistance healthcare coverage effective ██████████ 2015.

On ██████████ 2015 the Appellant requested a hearing to contest the discontinuance of Medicaid/Husky A Transitional Medical Assistance benefits.

On ██████████ 2015, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling 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
██████████ Appellant
Judy Boucher, Health Insurance Exchange, Access Health CT Representative
Marci Ostroski, Hearing Officer

The Hearing Record was left open for the submission of additional information. The Department provided additional information on [REDACTED] 2016. The Appellant provided a rebuttal on [REDACTED] 2016. The Hearing Record closed on [REDACTED] 2016.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department and the Health Insurance Exchange Access Health CT (“AHCT”) as an agent of the Department correctly discontinued the Medicaid/HUSKY A Transitional Medical Assistance healthcare insurance.

FINDINGS OF FACT

1. The Appellant’s family consisting of [REDACTED], and [REDACTED] [REDACTED] was granted HUSKY A/Medicaid for children under 19th birthday and parents or caretaker relatives otherwise known as F07 effective [REDACTED] 2013 through [REDACTED] 2014. (AHCT testimony)
2. Effective [REDACTED] 2014 the Appellant’s family consisting of [REDACTED] [REDACTED] and [REDACTED], exceeded the income limit for F07 HUSKY A Medicaid for children under 19th birthday and parents or caretaker relatives and was determined eligible for HUSKY A/Medicaid Transitional Medical Assistance through [REDACTED] 2015. (AHCT testimony)
3. In [REDACTED] 2015 the Connecticut Special Legislative Session passed a new state law splitting the HUSKY A program into two groups. One group HUSKY A/MEDICAID coverage for children under 19th birthday remained at the income limit of 196% of the Federal Poverty Level (“FPL”). The second group became HUSKY A/Medicaid Parents and Caretakers and lowering the income limit to 150% of the FPL. (June Special Session, Public Act No.15-5)
4. On [REDACTED] 2015 the Appellant completed a reapplication for medical assistance. AHCT found the Appellant [REDACTED] [REDACTED] eligible for HUSKY A/Medicaid for pregnant women. AHCT found the Appellants’ daughter [REDACTED] eligible for HUSKY A/Medicaid for children under 19th birthday. AHCT found the Appellant [REDACTED] ineligible for F07/X07 HUSKY A/Medicaid for parents and caretaker relatives and granted him a Qualified Health Plan (“QHP”). (AHCT testimony, Ex. 9: Eligibility Results for Application [REDACTED])
5. The Appellants have exceeded the income limit for the HUSKY A/Medicaid programs. (AHCT testimony, Appellant’s testimony, Ex. A: Appellant’s written statement)

6. On [REDACTED] 2015 the Department sent a Notice of Action to the Appellants stating that the HUSKY A/Medicaid Transitional Medical Assistance was discontinued effective [REDACTED] 2015. (Ex. 7: Notice of Action [REDACTED]/15)
7. On [REDACTED] 2015 AHCT sent a Notice of Action to the Appellants stating that [REDACTED] was granted HUSKY A Transitional Medical Assistance effective [REDACTED] 2015 through [REDACTED] 2016. (Ex. B: Notice of Action [REDACTED]/15)
8. On [REDACTED] 2015 the Department sent a Notice of Action to the Appellant [REDACTED] for [REDACTED] stating "Notice of Discontinuance of X03 HUSKY A Increased Earnings Extension: Your medical assistance will be discontinued on [REDACTED]/15". (Ex. 6: Narrative page 13)
9. Effective [REDACTED] 2015 AHCT discontinued the Appellant [REDACTED] HUSKY A Transitional Medical Assistance. (AHCT testimony)
10. On [REDACTED] 2015 the Appellant submitted an application through the Access Health website for medical assistance. At the time of this application the Appellant was a family of four. The Appellants [REDACTED] and his spouse [REDACTED] and their two children [REDACTED] and [REDACTED]. The Appellant was seeking coverage for [REDACTED] and [REDACTED]. (Ex. 1: Application [REDACTED])
11. On Application [REDACTED] the Appellant reported annual income of \$70,000. (Ex.1: Application [REDACTED])
12. AHCT found [REDACTED], and [REDACTED] ineligible for HUSKY A because they did not meet the Medicaid financial criteria. (Ex. 3: Notice of Action [REDACTED]/15)
13. AHCT found [REDACTED], and [REDACTED] eligible to receive a Qualified Health Plan ("QHP") with \$657 in Advanced Premium Tax Credits ("APTC"). (Ex. 3: Notice of Action [REDACTED]/15)
14. On [REDACTED] 2015 AHCT sent a letter to the Appellant with the eligibility determination. (Ex. 3: Notice of Action [REDACTED]/15)
15. The Federal Poverty Limit ("FPL") for a family of four at the time of enrollment was \$24,250.00 (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 42 CFR § 435.110(b)(c)(2)(i) provides that the agency must provide Medicaid to parents and caretaker relatives whose income is at or below the income standard established by the agency in the State Plan.
7. Title 42 CFR § 435.118(b)(2)(ii) provides that the agency must provide Medicaid to children under age 19 whose income is at or below the income standard established by the agency in its State Plan.
8. Public Act 15-5 June Sp. Session, Section 370 (a) provides in part Except as provided in section 17b-277, as amended by this act, and section 17b-292, as amended by public act 15-69 and this act, the medical assistance program shall

provide coverage to persons under the age of nineteen with household income up to one hundred ninety-six per cent of the federal poverty level without an asset limit and to persons under the age of nineteen, who qualify for coverage under Section 1931 of the Social Security Act, with household income not exceeding one hundred ninety-six per cent of the federal poverty level without an asset limit, and their parents and needy caretaker relatives, who qualify for coverage under Section 1931 of the Social Security Act, with household income not exceeding one hundred fifty per cent of the federal poverty level without an asset limit.

9. One hundred fifty percent of the FPL for a household of four is \$36,375.00 (\$24,250.00 X 1.50) per year.
10. One hundred ninety-six percent of the FPL for a household of four is \$ 47,530.00 (\$24,250.00 x 1.96) per year.
11. Public Act 15-5 June Sp. Session, Section 371(a) provides The Commissioner of Social Services shall review whether a parent or needy caretaker relative, who qualifies for Medicaid coverage under Section 1931 of the Social Security Act and is no longer eligible on and after [REDACTED] 2015, pursuant to section 17b-261 of the general statutes, as amended by this act, remains eligible for Medicaid under the same or a different category of coverage before terminating coverage
12. UPM § 2540.09 (A) (1) provides that the group of people who qualify for Extended Medical Assistance includes members of assistance units who lose eligibility for HUSKY A for Families ("F07") (cross reference: 2540.24) under the following circumstances:
 - the assistance unit becomes ineligible because of hours of, or income from, employment; or
 - the assistance unit was discontinued, wholly or partly, due to new or increased child support income.
13. UPM § 2540.09 (B) (1) provides that individuals qualify for HUSKY A under this coverage group for the twelve month period beginning with the first month of ineligibility for F07.
14. In [REDACTED] of 2015 the Appellant [REDACTED] countable MAGI household income exceeded the income threshold for F07 Medicaid/Husky A for Parents and Caretakers for a household of four.
15. The Department was correct to deny F07 Medicaid/HUSKY A for Parents and Caretakers for the Appellant.
16. In [REDACTED] of 2015 the Appellant was not active on F07 HUSKY A Medicaid for Families.

17. Because the Appellant did not lose eligibility for F07 Medicaid coverage effective [REDACTED] 2015 due to the change in income limits the Department was incorrect to review the Appellant's eligibility under the Medicaid Transitional Medical Assistance program in [REDACTED] of 2015 and grant HUSKY A Medicaid for the time period of [REDACTED] 2015 through [REDACTED] 2016.
18. 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
19. Title 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.
20. UPM 1570.10(A)(1) provides for Notice requirements; Except in situations described below, the Department mails or gives adequate notice at least ten days prior to the date of the intended action if the Department intends to: discontinue, terminate, suspend or reduce benefits;
21. The Department correctly mailed or gave adequate notice at least ten days prior to the date of the discontinuance of the HUSKY A/Medicaid Transitional Medical Assistance effective [REDACTED] 2015.
22. The Department was correct to discontinue the HUSKY A/Medicaid Transitional Medical Assistance effective [REDACTED] 2015.

DISCUSSION

It is to be noted that this decision refers to both Access Health and the Department of Social Services. Access Health acts as an agent for the state Medicaid agency, the Department of Social Services and this decision addresses the actions taken by both entities.

The HUSKY A Transitional Medical Assistance program offers twelve months of continued Medicaid benefits when a family that is active on F07 HUSKY A Medicaid exceeds the Medicaid income limit due to increased earnings. The Appellants' family fell into this category in [REDACTED] of 2014 and was granted that program. In [REDACTED] of 2015 the Appellants' family did not fall into that category. The Appellant [REDACTED] had been discontinued from Medicaid at this point. His spouse [REDACTED] and child [REDACTED]


██████ had been granted Medicaid under other coverage groups, the HUSKY A Medicaid for Pregnant Women and HUSKY A Medicaid for children under 19th birthday respectively.

The Department erred when it sent the Appellant a letter granting him the HUSKY A/Medicaid Transitional Medical Assistance through ██████ 2016. The Department corrected this mistake when it discontinued the Appellant's Medicaid effective ██████ 2015. Contrary to the testimony by the Appellant and the AHCT representative, the exhibits show compelling evidence that the Department did in fact send proper notice to the Appellant on ██████ 2015 that his Medicaid would be discontinued effective ██████ 2015.

Under the Federal Affordable Care Act and State Medicaid guidelines there is no Medicaid eligibility for the Appellants at this time. It is understandable that the incorrect letter sent to them on ██████ 2015 would create confusion however this decision can only address the federal and state regulations governing eligibility for this program. Based on that, the Department took the proper actions to discontinue the Medicaid effective ██████ 2015.

DECISION

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



Marci Ostroski
Fair Hearings Officer

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.

