

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

Client # ██████████
Application # ██████████
Hearing Request # 770055

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2016, the Health Insurance Exchange Access Health CT (“AHCT”) sent ██████████, (the “Appellant”) a notice approving \$829.00 in Advanced Premium Tax Credits (“APTC”) for the Qualified Health Plan (“QHP”).

On ██████████ 2016, the Appellant requested a hearing to contest the amount of the APTC.

On ██████████ 2016, 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 participated in the hearing:

██████████ Appellant
██████████, Appellant’s Witness
Judy Boucher, AHCT’s Representative
Carla Hardy, Hearing Officer

The record remained open for the submission of additional documentation. The record closed on [REDACTED] 2016.

STATEMENT OF THE ISSUE

The issue to be decided is whether Access Health CT (“AHCT”) granted a Qualified Health Plan (“QHP”) with the correct Advanced Premium Tax Credit (“APTC”).

FINDINGS OF FACT

1. On [REDACTED] 2016, the Appellant initiated a change reporting application requesting healthcare coverage for herself. She reported income totaling \$19,500.00 per year and was approved for \$829.00 per month in APTC (Exhibit A: Application # [REDACTED] [REDACTED]/16, Exhibit B: Change Reporting Eligibility Decision for Healthcare Coverage notice, [REDACTED]/16).
2. The Appellant resides in [REDACTED] CT which is in [REDACTED] County (Exhibit A).
3. The Appellant’s date of birth is [REDACTED] 1945. She was 71 years old at the time of her [REDACTED] 2016 application (Appellant’s Testimony).
4. The Appellant supplied AHCT with a copy of the following paystubs: [REDACTED]/16 (\$302.00); [REDACTED]/16 (\$386.00); [REDACTED]/16 (\$386.00); and [REDACTED]/16 (\$386.00) (Hearing Summary).
5. The AHCT Appeal Coordinator calculated that the Appellant earned \$18,834.00 $[(\$302.00+\$386.00+\$386.00+\$386.00)/4] \times 4.3 \times 12$ per year (Hearing Summary).
6. On [REDACTED] 2016, the Appellant initiated a change reporting application. She reported income totaling \$18,834 per year and was approved for \$836.00 per month in APTC (Exhibit F: Change Reporting Application # [REDACTED] [REDACTED]/16, Exhibit G: Change Reporting Eligibility Decision for Healthcare Coverage notice, [REDACTED]/16).
7. The Appellant was 71 years old at the time of her [REDACTED] 2016 application (Fact #3).
8. The Appellant contributes \$20.00 per week or \$1,040.00 ($\$20.00 \times 52$ weeks) yearly toward a 401K plan (Appellant’s Witness’ Testimony).
9. The Appellant will not be eligible for Medicaid until 2017 (Appellant’s Witness’ Testimony).

10. The value of the Second Lowest Cost Silver Plan (“SLCSP”) for the Appellant in Fairfield County totaled \$907.15 (AHCT Representative’s Testimony).
11. The Federal Poverty Limit (“FPL”) for a family of one at the time of open enrollment was \$11,770.00 per year (Federal Register).
12. The Appellant’s household income exceeds the FPL by 151.18 percent $[(\$17,794.00/\$11,770.00) \times 100]$.

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. 45 CFR §155.300(a) provides that the Federal poverty level or FPL means the most recently published Federal poverty level, updated periodically in the Federal Register by the Secretary of Health and Human Services under the authority of 42 U.S.C. 9902(2), as of the first day of the annual open enrollment period for coverage in a QHP through the Exchange, as specified in §155.410.
7. 45 CFR §155.410(e)(2) provides that the first day of the annual open enrollment period for the 2016 benefit year began on November 1, 2015.
8. Title 26 of the Internal Revenue Code (“the Code”) § 62(a)(7) provides in part that Retirement Savings contributions are deducted from adjusted gross income.
9. The Appellant contributes \$20.00 per week or \$1,040.00 (\$20.00 x 52 weeks) per year into a retirement savings account that was not taken into account when determining the Appellant’s MAGI.
10. 42 CFR § 435.603(e) provides that MAGI-based income means income calculated using the same financial methodologies used to determine modified adjusted gross income as defined in section 36B(d)(2)(B) of the Code, with the following exceptions-
 - (1) An amount received as a lump sum is counted as income only in the month received.
 - (2) Scholarships, awards, or fellowship grants used for education purposes and not for living expenses are excluded from income.
 - (3) American Indian/Alaska Native exceptions. The following are excluded from income:
 - (i) Distributions from Alaska Native Corporations and Settlement Trusts;
 - (ii) Distributions from any property held in trust, subject to Federal restrictions, located within the most recent boundaries of a prior Federal reservation, or otherwise under the supervision of the Secretary of the Interior;
 - (iii) Distributions and payments from rents, leases, rights of way, royalties, usage rights, or natural resource extraction and harvest from –
 - (A) Rights of ownership or possession in any lands described in paragraph (e)(3)(ii) of this section; or
 - (B) Federally protected rights regarding off-reservation hunting, fishing, gathering, or usage of natural resources;
 - (iv) Distributions resulting from real property ownership interests related to natural resources and improvements –
 - (A) Located on or near a reservation or within the most recent boundaries of a prior Federal reservation; or
 - (B) Resulting from the exercise of federally-protected rights relating to such real property ownership interests;
 - (v) Payments resulting from ownership interests in or usage rights to items that have unique religious, spiritual, traditional, or cultural significance

or rights that support subsistence or a traditional lifestyle according to applicable Tribal Law or custom;

- (vi) Student financial assistance provided under the Bureau of Indian Affairs education programs.

11. Section 36B(d)(2)(B) of the Internal Revenue Code (the "Code") provides that the term "modified adjusted gross income" means adjusted gross income increased by-

- (i) Any amount excluded from gross income under section 911,
- (ii) Any amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax, and
- (iii) An amount equal to the portion of the taxpayer's social security benefits (as defined in section 86(d)) which is not included in gross income under section 86 for the taxable year.

12. The Appellant does not have any additional income that is required to be added to her adjusted gross income to arrive at her modified adjusted gross income.

13. AHCT incorrectly determined that the Appellant's MAGI totaled \$18,834.00 per year.

14. The Appellant's correct MAGI is \$17,794.00 (\$18,834.00 - \$1,040.00 (retirement savings contributions)) per year.

15. 26 CFR § 1.36B-3T provides that for years beginning after December 31, 2014, the applicable percentages in the table will be adjusted by the ratio of premium growth to income growth for the preceding calendar year and may be further adjusted to reflect changes to the data used to compute the ratio of premium growth to income growth for the 2014 calendar year or the data sources used to compute the ratio of premium growth to income growth. Premium growth and income growth will be determined in accordance with published guidance, see §601.601(d)(2) of this chapter. In addition, the applicable percentages in the table may be adjusted for taxable years beginning after December 31, 2018, to reflect rates of premium growth relative to growth in the consumer price index.

16. 26 CFR §601.601(d)(2) provides for the objectives and standards. A revenue ruling is an official interpretation by the Service that has been published in the Internal Revenue Bulletin.

17. Internal Revenue Service Bulletin 2014-50 Rev. Proc. 2014-62 Section 2.01 provides for the Applicable Percentage Table for 2016. For taxable years beginning in 2016, the Applicable Percentage Table for purposes of § 36B(b)(3)(A)(i) and § 1.36B-3T(g) is:

Household income percentage of Federal poverty line	Initial percentage	Final percentage
Less than 133%	2.03	2.03
At least 133% but less than 150%	3.05	4.07
At least 150% but less than 200%	4.07	6.41
At least 200% but less than 250%	6.41	8.18
At least 250% but less than 300%	8.18	9.66
At least 300% but less than 400%	9.66	9.66

18. The Appellant's modified adjusted gross income ("MAGI") totals \$17,794.00 per year.

19. The FPL for a family of one totaled \$11,770.00 on November 1, 2015.

20. 26 CFR § 1.36B-3(g) provides for the applicable percentage.

The Appellant's modified adjusted gross income ("MAGI") exceeds the FPL for a one person household by 151.18 percent ($\$17,794.00/\$11,770.00 \times 100$).

Determine the excess of the Appellant's FPL percentage (151.18) over the initial household percentage in the Appellant's range (150), which is 1.18. Determine the difference between the initial household income percentage in the taxpayer's range (150) and the ending household income percentage in the taxpayer's range (200), which is 50.

Divide the first amount by the second amount: $1.18/50 = .0236$.

Compute the difference between the initial premium percentage (4.07) and the second premium percentage (6.41) in the taxpayer's range; $6.41 - 4.07 = 2.34$.

Multiply the amount in the first calculation (.0236) by the amount in the second calculation (2.34) and add the product (.0552) to the initial premium percentage in the Appellant's range (4.07), resulting in the Appellant's applicable percentage of 4.1252.

$.0236 \times 2.34 = .0552$,
 $4.07 + .0552 = 4.1252$ (the Appellant's applicable percentage)

The applicable percentage multiplied by the taxpayer's household income determines the taxpayer's required share of premiums. This required share is subtracted from the adjusted monthly premium for the applicable benchmark plan when computing the premium assistance amount.

21. 26 CFR § 1.36B-3(f) provides for the applicable benchmark plan- (1) In general.

Except as otherwise provided in this paragraph (f), the applicable benchmark plan for each coverage month is the second lowest cost silver plan (as described in section 1302(d)(1)(B) of the Affordable Care Act (42 U.S.C. 18022(d)(1)(B))) offered through the Exchange for the rating area where the taxpayer resides for— (2) Family Coverage. The applicable benchmark plan for family coverage is the second lowest cost silver plan that applies to the members of the taxpayer's coverage family (such as a plan covering two adults if the members of a taxpayer's coverage family are two adults).

The Appellant's required share = $.041252 \times \$17,794.00 = \734.04 per year or \$61.17 (\$734.04/12) per month.

The adjusted monthly premium for the applicable benchmark plan [(\$907.15) – the required share (\$61.17)] = the premium assistance amount (\$845.98) which is rounded to \$846.00.

22. The APTC is also referred to as the premium assistance amount.

23. AHCT did not allow for the retirement savings contribution deduction.

24. AHCT incorrectly calculated \$836.00 per month in APTC because they did not apply the deduction for the yearly retirement savings contribution.

25. The correct APTC is \$846.00 per month.

DISCUSSION

AHCT incorrectly calculated an APTC of \$836.00 per month based on a yearly income of \$18,834.00. The Appellant's income was verified with pay stubs that were submitted by the Appellant on [REDACTED] 2016. AHCT did not account for the Appellant's \$20.00 per week or \$1,040.00 per year contribution to her retirement savings. The weekly contribution should have been viewable on the Appellant's pay stubs. Because the Appellant's retirement savings contribution was not deducted from the Appellant's income, her MAGI was over estimated at \$18,834.00 per year. The Appellant's MAGI is \$17,794.00 per year and her correct APTC is \$846.00 per year.

DECISION

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

ORDER

1. AHCT shall recalculate the Appellant's modified adjusted gross income as \$17,794.00 per year effective [REDACTED] 2016.
2. Compliance with this order shall be forwarded to the undersigned no later than [REDACTED] 2016.



Carla Hardy
Hearing Officer

Pc: Judy Boucher, 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, 25 Sigourney Street, Hartford, CT 06106. 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.

