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

[redacted] **2015**
Signature Confirmation

CLIENT No #[redacted]
Request # 779979

NOTICE OF DECISION

PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted] 2016 the Health Insurance Exchange Access Health CT- ("AHCT") sent [redacted] (the "Appellant") a Notice of Action ("NOA") discontinuing the Appellant's Medicaid Husky A healthcare coverage.

On [redacted] 2016 the Appellant requested an administrative hearing to contest the decision to terminate such benefits.

On [redacted] 2016, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for [redacted] 2016.

On [redacted] 2016, in accordance with sections 17b-60, 17-61 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:

[redacted] Appellant
Judith Boucher, AHCT Representative
Almelinda McLeod, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether Health Insurance Exchange Access Health CT ("ACHT") correctly discontinued the Medicaid Husky A benefits.

FINDINGS OF FACT

1. The Appellant was active Medicaid Husky A until [redacted] 2016. (Exhibit #1, ACHT application # and AHCT testimony)

2. On [redacted] 2016, the Appellant submitted a paper application number [redacted] through the State of Connecticut Health Insurance Exchange indicating her income was $1211.00. Verification of income was requested by [redacted] 2016 (ACHT testimony)

3. The Appellant's tax filing status is head of household (primary). (Exhibits #1, ([redacted] #2 ([redacted] and #3 ([redacted] Access Health Applications)

4. The Appellant is 37 years old and resides with her 17 year old son in [redacted] Connecticut which is in [redacted] County. The Appellant is a household of two. (Exhibits #1 ([redacted] #2 ([redacted] and #3 ([redacted] Access Health Applications)

5. On [redacted] 2016, the Appellant spoke with AHCT regarding a change creating application number [redacted] reporting her income as $2,231.70 monthly and $13,494.00 yearly. (Exhibit #3, AHCT application # [redacted]

6. The Appellant receive Unemployment Compensation Benefits ("UCB") in the amount of $519.00 per week effective [redacted] 2016 to [redacted] 2017. $519.00 x 4.3 = $2,231.70 per month. The Unemployment compensation is the Appellant's sole source of income. (Exhibit 14, CT. Dept. of labor Monetary Determination and Appellant testimony)

7. The Federal Poverty Limit ("FPL") for the Husky A- children for a household of two is $2,683.35. (Hearing summary)

8. The FPL for the Husky A- Parent and Caretakers for a household of two is $ 2069.25. (Hearing Summary)

9. On [redacted] 2016, AHCT determined the Appellant was eligible for a Qualified Health Plan with an Advance Premium Tax Credit Subsidy of $352.00.(Exhibit # 9, Change Reporting Eligibility decision letter)

10. On [redacted] 2016, the Appellant reported a change in her income creating application # [redacted] The Appellant reported monthly income was $1211.00. (Exhibit #2, AHCT application)

11. On [redacted] 2016, AHCT determined eligibility based on the reported income and found the Appellant to be eligible for Husky A Medicaid. (Exhibit #6, Change reporting eligibility decision notice and AHCT testimony)

12. On [redacted] 2016, AHCT determined through an independent match with external sources like the U.S Department of Homeland Securities and the Internal Revenue Services, that the income provided by the Appellant did not match the income found in their system. (AHCT testimony)

13. On [redacted] 2016, AHCT issued an Additional Verification Required notice to the Appellant requesting documents to verify her reported income of $1211.00. This verification for application #[redacted] was due by [redacted] 2016. (Exhibit #7, Additional Verification Required notice)

14. On [redacted] 2016, AHCT determined eligibility by submitting application number #[redacted] using the verified income information found by external sources and found that they were ineligible for Husky A because the Appellant did not provide verification of her monthly income of $1211.00 within the allotted 90 days. (Exhibit #1, AHCT application)

15. The Appellant confirmed her gross income continues to be Unemployment compensation benefits at $519.00 per week or $ 2,231.00 per month, however, AHCT did not take into consideration her shelter expenses like rent, utilities, food and medical expenses. The Appellant's net income after all these deductions was $1211.00. (Appellant's testimony)

16. The Appellant was unable to provide the documents to verify her monthly income of $1211.00 per month. The Appellant did not realize that her telephone explanation of her income minus her home deductions was not considered verification in the eligibility process. (Appellant's testimony)

17. On [redacted] 2016, AHCT sent the Appellant a final determination Notice notifying the Appellant that she and her son were no longer qualified for Husky A coverage because she did not prove her household's monthly income. (Exhibit #13, Loss of Health Coverage final determination Notice)

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. Title 45 Code of Federal Regulations ("CFR") 155.110 (A) (2) provides the State may elect to authorize an Exchange established by the State to enter into an agreement with an eligible entity to carry out or more responsibilities of the Exchange. An eligible entity is: the State Medicaid agency , or any other State agency that meets the qualifications of paragraph (a) (1) of this section.

3. 45 CFR §155.505 (c) (1) provides Options for Exchange appeals. 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; or

4. 45 CFR §155.505 (d) Eligible entities. 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 (e) *MAGI-based income.* For the purposes of this section, 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; o (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.

7. 42 CFR §435.603 (g) pertains to no resource test or income disregards. In the case of individuals whose financial eligibility for Medicaid is determined in accordance with this section, the agency must not – (1) Apply any assets or resources test; or (2) Apply any income or expense disregards under sections 19025 (r) (2) or 1931 (b) (2) (C), or otherwise under title XIX of the Act, except as provided in paragraph (d) (1) of this section.

8. Section 36 B(d) (2) (B) of the internal Revenue Code (“Code”) provides that the term modified adjusted gross income “ means adjusted gross increased by- (1) 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.

9. AHCT correctly determined the Appellant does not have exclusions of her income, no expenses nor disregards that were needed for the determination of eligibility for Medicaid and correctly arrived at her modified adjusted gross income.

10. 45 CFR § 155.310 (K) (1) (2) (3) pertains to an incomplete application. If an application filer submits an application that does not include sufficient information for the Exchange to conduct an eligibility determination for enrollment in a QHP through the Exchange or for insurance affordability programs, if applicable, the Exchange must -- (1) Provide notice to the

applicant indicating that information necessary to complete an eligibility determination is missing, specifying the missing information, and providing instructions on how to provide the missing information; and (2) Provide the applicant with a period of no less than 10 days and no more than 90 days from the date on which the notice described in paragraph (k) (1) of this section is sent to the applicant to provide the information needed to complete the application to the Exchange. And (3) During the period described in paragraph (k) (2) of this section, the Exchange must not proceed with an applicant's eligibility determination or provide advance payments of the premium tax credit or cost sharing reductions, unless an application filer had provided sufficient information to determine his or her eligibility for enrollment in a QHP through the Exchange, in which case the Exchange must make such a determination for enrollment in a QHP.

11. 45 CFR § 155.315 (f) (1) (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 QHP through the Exchange, advanced 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 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 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.

12. 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.

13. AHCT correctly issued notices to the Appellant requesting additional documents (*Verification of income*) needed to validate eligibility for healthcare coverage.

14. AHCT correctly provided the Appellant with a period of no less than 10 days and no more than 90 days from the date the application had insufficient information for the Appellant to provide verification of the income.

15. AHCT correctly determined the Appellant was not eligible for Husky A Medicaid because she failed to provide documentation of the reported $1211.00 per month income within the 90 day verification period.

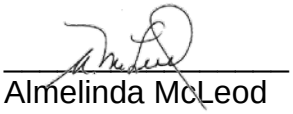
DISCUSSION

One of the changes under the Medicaid MAGI methodology is the elimination of various deductions and disregards that once were used to calculate eligibility for the Medicaid program. The Affordable Care Act now implements a standard disregard of 5% FPL. According to policy and regulations, household expenses nor medical expenses are considered allowable deductions for the determination of Husky A Medicaid.

AHCT was correct to use the verified income from the external source, (Department of Labor, *Unemployment Compensation)* to determine the Appellant ineligible for the Medicaid Husky A because she failed to provide documentary evidence of her income within the 90 day verification period.

DECISION

The Appellant's appeal is DENIED.



Almelinda McLeod
Hearing Officer

CC: Judy Boucher, Health Insurance Exchange, Access Health CT

RIGHT TO REQUEST RECONSIDERATION

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.

RIGHT TO APPEAL

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.