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

[redacted] **2016**
Signature Confirmation

Client ID # [redacted]
Application # [redacted]
Hearing Request # 784254

NOTICE OF DECISION

PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted] 2016, the Health Insurance Exchange Access Health CT ("AHCT") issued a Notice of Action ("NOA") to [redacted], (the "Appellant") discontinuing her Medicaid/HUSKY A healthcare coverage.

On [redacted] 2016, the Appellant requested a hearing to contest the discontinuance of the Medicaid/HUSKY A healthcare coverage.

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

On [redacted] 2016, OLCRAH issued a notice rescheduling the administrative hearing for [redacted] 2016 at the Appellant's request.

On [redacted] 2016, in accordance with sections 17b-60, 17b-61, and 4-176e to 4-189, inclusive, of the Connecticut General Statues, OLCRAH held an administrative hearing. The following individuals participated in the hearing:

[redacted] Appellant
Temiste King, AHCT Representative

Carla Hardy, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether AHCT correctly discontinued the Appellant's Medicaid/HUSKY A coverage.

FINDINGS OF FACT

1. The Appellant's household consists of three members that include herself and her two minor children (Exhibit A: Application # [redacted], [redacted]/16, Appellant's Testimony).

2. The Appellant and her children are active on Medicaid/HUSKY A healthcare coverage (Hearing Record).

3. On [redacted] 2015, the Appellant self-attested monthly income equaling $3,166.67 per month (AHCT's Testimony).

4. On [redacted] 2015, AHCT determined the Appellant no longer qualified for HUSKY A healthcare coverage due to exceeding the income limit but qualified for TMA ("Transitional Medical Assistance") effective [redacted] 2015 through [redacted] 2016 (Exhibit E: Case Comments, Hearing Summary).

5. No action was taken by AHCT or the Department of Social Services ("DSS") to terminate HUSKY A coverage in [redacted] 2015 (AHCT's Testimony).

6. No action was taken by AHCT or DSS to grant TMA coverage in [redacted] 2015 (AHCT's Testimony).

7. AHCT did not issue any notices to the Appellant about TMA (AHCT's Testimony).

8. The Appellant completed her yearly renewal via telephone. She was informed during that phone call that she no longer qualified for HUSKY A (Appellant's Testimony).

9. On [redacted] 2016, AHCT updated the Appellant's healthcare application. The Appellant self-attested monthly income totaling $3,166.67 (Exhibit A).

10. On [redacted] 2016, AHCT determined the Appellant's monthly income of $3,167.00 exceeded the HUSKY A income limit for parents and caretakers and issued a notice terminating the Appellant's HUSKY A healthcare coverage. The notice did not indicate the intended termination date (Exhibit B: NOA, [redacted]/16).

11. The Federal Poverty Limit ("FPL") for a household of three totaled $1,674.00 per month effective [redacted] 2015 (Federal Register).

12. The FPL for a household of three totaled $1,680.00 per month effective [redacted] 2016 (Federal Register).

13. The Appellant's two children retained eligibility for HUSKY A coverage (Exhibit B).

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 § 435.110(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. 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 expensed 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.

8. Title 26 of the Internal Revenue Code (“IRC”) section 36B(d)(2)(B) 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.

9. The Appellant's monthly MAGI totaled $3,166.67 in [redacted] 2015 and [redacted] 2016.

10. 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.

11. One hundred fifty percent of the FPL for a household of three for a parent or caretaker relative totaled $2,511.00 ($1,674.00 x 1.50) per month in [redacted] 2015.

12. One hundred fifty percent of the FPL for a household of three for a parent or caretaker relative totaled $2,520.00 ($1,680.00 x 1.50) per month in [redacted] 2016.

13. 42 CFR §435.603(d)(1)(4) 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, 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.

14. Five percent of the FPL for a family of three equaled $83.70 ($1,674.00 x .05) per month in [redacted] 2015.

15. The Appellant's countable MAGI totaled $3,082.97 ($3,166.67 - $83.70) in [redacted] 2015.

16. Five percent of the FPL for a family of three equaled $84.00 ($1,680.00 x .05) per month in [redacted] 2016.

17. The Appellant's countable MAGI totaled $3,082.67 ($3,166.67 - $84.00) in [redacted] 2016.

18. AHCT correctly determined the Appellant's countable MAGI ($3,082.97) exceeded the Medicaid/ HUSKY A income limit ($2,511.00) for parents and caretaker relatives in [redacted] 2015.

19. AHCT correctly determined the Appellant's countable MAGI ($3,082.67) exceeded the Medicaid/HUSKY A income limit ($2,520.00) for parents and caretaker relatives in [redacted] 2016.

20. 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 August 1, 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

21. 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.

22. UPM § 2540.09 (B) provides for the duration of eligibility.
(1) Individuals qualify for HUSKY A under this coverage group for the twelve month period beginning with the first month of ineligibility for HUSKY A (F07).
(2) If ineligibility for HUSKY A for Families (F07) occurs prior to the termination of assistance, the Extended Medical Assistance period begins with the first month that the family was not eligible for HUSKY A for Families (F07).

23. AHCT correctly determined the Appellant became ineligible for HUSKY A (F07) effective [redacted] 2015.

24. AHCT correctly determined the Appellant became eligible for TMA effective [redacted] 2015.

25. AHCT correctly determined that eligibility for the TMA should have ended on [redacted] 2016, which was twelve months after eligibility for the Medicaid/HUSKY A (F07) should have ended.

26. AHCT correctly determined that the Appellant's MAGI exceeded the Medicaid/HUSKY A income limit for parents and caretaker relatives on [redacted] 2016.

27. 42 CFR §435.919(a) provides that the agency must give beneficiaries timely and adequate notice of proposed action to terminate, discontinue, or suspend their eligibility or to reduce or discontinue services they may receive under Medicaid.

28. UPM §1570.10(A) provides that the Department mails or gives adequate notice at least ten days prior to the date of the intended action if the Department intends to :
    1. Discontinue, terminate, suspend or reduce benefits; or
    2. Change the manner or form of payment for programs.

29. AHCT did not provide the Appellant with a termination date of her Medicaid/HUSKY A coverage in the NOA dated [redacted] 2016.

30. AHCT failed to give the Appellant notice of at least 10 days that informed the Appellant that they intended to terminate her Medicaid/HUSKY A healthcare coverage.

DISCUSSION

AHCT determined the Appellant was no longer eligible for Medicaid/HUSKY A effective [redacted] 2015 but was eligible for TMA effective [redacted] 2015. Neither AHCT nor DSS took action at that time to discontinue the Medicaid/HUSKY A and grant the TMA. The Appellant incorrectly remained active on Medicaid/HUSKY A coverage. A year later in [redacted] 2016, AHCT realized the error and took action to terminate the HUSKY A healthcare coverage. They did not grant a TMA at that time because the Appellant had received twelve months of HUSKY A coverage beyond what should have been her termination date on [redacted] 2016. The Appellant had received twelve months of continuous Medicaid coverage between [redacted] 2015 and [redacted] 2016.

On [redacted] 2016, AHCT reviewed the Appellant for continued coverage and correctly determined the Appellant's income exceeded the HUSKY A income limit for parent and caretaker relatives. AHCT issued a NOA terminating the healthcare coverage but did not provide the Appellant with the intended termination date. Based on the notice issued [redacted] 2016, the Appellant could not have determined when her coverage was expected to terminate. The Appellants HUSKY A coverage remained active as of the date of this hearing. AHCT correctly determined the Appellant was not eligible for TMA in [redacted] 2016 because she had received a TMA equivalent from [redacted] 2015 through [redacted] 2015. AHCT correctly determined the Appellant's income exceeded the income limit and the Appellant was no longer eligible for HUSKY A on [redacted] 2016. However, the NOA issued on [redacted] 2016 is deficient in notifying the Appellant when her coverage will be terminated.

DECISION

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

1. The Appellant's appeal is **denied** because the Appellant's income exceeds the income limit for the Medicaid/HUSKY A program.

2. The Appellant's appeal is **granted** because she was not properly notified of AHCT's intention to terminate her coverage.

ORDER

1. AHCT shall issue another termination notice that informs the Appellant of the date they intend to discontine Medicaid/HUSKY A coverage.

2. AHCT shall give the Appellant notice at least 10 days prior to the date of the intended discontinuance.

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

Carla Hardy

Carla Hardy
Hearing Officer

Pc: Temiste King, 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.