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 No # [REDACTED]
Request # 786516

NOTICE OF DECISION

PARTY

[REDACTED]
[REDACTED]
[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED] 2016, the Health Insurance Exchange Access Health CT- ("AHCT") sent [REDACTED] on (the "Appellant") a Notice of Action ("NOA") denying the Appellant's Medicaid Husky D healthcare coverage.

On [REDACTED] 2016, the Appellant requested an administrative hearing to contest the decision to deny Medicaid/ Husky D benefits.

On [REDACTED] [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
Temiste King, AHCT Representative
Almelinda McLeod, Hearing Officer

Record closed on [REDACTED] 2016.

STATEMENT OF THE ISSUE

The issue to be decided is whether ACHT correctly denied the Husky A Medicaid health benefits.

FINDINGS OF FACT

1. The Appellant and her daughter were active Husky A Medicaid until 2016, (Hearing summary)

2. In 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 the 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 with a 5% income disregard. (Special Session, Public Act No. 15-5)

3. The Department of Social Services granted the Appellant and her child Medicaid under the Transitional Medical Assistance Program ("TMA") which provided them with Medicaid coverage from 2015 to 2016. (Appellant and AHCT testimony)

4. On 2016, AHCT submitted an online application requesting medical insurance for the Appellant and her daughter. (Exhibit #1- Access Health application #)

5. The Appellant's tax filing status is Head of household (Primary). (Hearing record and Appellants testimony)

6. The Appellant's child is her tax dependent for 2015 taxes. The Appellant is a household of 2. (Exhibit #1, AHCT application)

7. At time of enrollment, the Appellant's date of birth is /60, age 55. (Exhibit #1, AHCT application)

8. The Appellant reported a yearly modified adjusted gross income ("MAGI") totaled $52,464.00. (Exhibit #1 & #2, AHCT applications)

9. At this hearing, the Appellant reported a household monthly gross income of $3268.00 per month.

10. On 2016, AHCT discontinued the Appellant's Husky A Parents and Caretakers because the one year extension expired and

the income listed on applications exceeded the income limit for Husky A Medicaid. (Exhibit # 8 , Application Results Notice)

11. On [redacted] 2016, the Appellant sent two paystubs dated 8/4/16 and [redacted]/16 for $1520.00 each. The Appellant is paid $19.00 per hour at 40 hours per week. The Appellant is paid bi-weekly. ($1520.00 x 2.15 = $3268.00). (Exhibit 6, verification of income and Appellant's testimony)

12. On [redacted] 2016, the Appellant sent a letter from the Social Security Administration, Retirement, Survivors and Disability Insurance to verify her child's income of $1140.00. (Exhibit 6, verification of income and Appellant's testimony)

13. AHCT clarified that the Appellant's child's Social Security income of $1140.00 was not factored as part of her determination for Husky A Medicaid. (AHCT testimony)

14. On [redacted] 2016, AHCT used the Appellant's income of $3268.00 and determined the Appellant was ineligible for Husky A Parent and Caretakers Husky A Medicaid. AHCT determined the Appellant was eligible for a Qualified Health Program ("QHP") with $0.00 in APTC. (Exhibit # 9, Application results Notice)

15. The Appellant is unable to afford to pay full price premium for a QHP because she is a widow residing in a big house and has monthly living expenses that include buying food, paying her mortgage and utilities and upkeep of her car. (Appellant's testimony)

16. The Federal Poverty Limit ("FPL") for a household of two at the time of enrollment is $16,020 per year which converted equals $1335.00 ($16,020 / 12 = $1335.00) per month. (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 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.

4. 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

5. 45 CFR 155.505 (d) Eligible entities. An appeals process established under this subpart must comply with § 155.110 (a).

6. 42 CFR § 435.603 (d) (1) provides for the construction of the modified adjusted gross income ("MAGI") household. Household income – (1) General Rule. Except as provided in paragraphs (d) (2) through (d) (4) of this section, household income is the sum of the MAGI-based income, as defined in paragraph (e) of this section, of every individual in the individual's household.

7. 42 CFR § 435.603 (2) provides in part the Basic rule for individuals claimed as a tax dependent. In the case of an individual who expects to be claimed as a tax dependent by another taxpayer for the taxable year in which an initial determination or renewal of eligibility is being made; the household is the household of the taxpayer claiming such individual as a tax dependent.

8. The Appellant is a widow and files Head of household as primary and her daughter is her tax dependent in 2016. Her MAGI household consists of herself and her child. She is a household of two.

9. 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 1902 (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.

10. 42 CFR § 435.603 (d) (2) Income of children and tax dependents (i) The Magi based income of an individual who is included in the household of his or her natural, adopted or step parent and is not expected to be required to file a tax return under section 6012 (a) (1) of the Code for the taxable year in which eligibility for Medicaid is being determined, is not included in household income whether or not the individual files a tax return. (ii) The MAGI based income of a tax dependent described in paragraph (f) (2) (i) of this section who is not expected to be required to file a tax return under section 6012 (a) (1) of the Code for the taxable year in which eligibility for Medicaid is being determined is not included in the household income of the tax payer whether or not such tax dependent files a tax return.

11. U.S. Code Title 26 Section 36 B(d) (2) (B) of the internal Revenue Code ("Code") provides that the term modified adjusted gross income " means adjusted gross income 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.

12. U.S. Code Title 26, Subtitle A, Chapter 1, Subchapter B, Part 1 § 62 provides in part for allowable deductions. (a) General rule, For purposes of this subtitle, the term "adjusted gross income" means in the case of an individual, gross income minus the following deduction: Trade and Business Deductions, Certain Trade and Business Deductions of Employees, Losses from Sale or Exchange of Property, Deductions attributable to Rents and Royalties, Certain deductions of Life Tenants and Income Beneficiaries of Property, Pensions, Profit Sharing, and Annuity Plans of Self-Employed Individuals, Retirement Savings, Penalties forfeited because of premature withdrawal of funds from Time Savings Accounts or Deposits, Alimony, Reforestation Expenses, Certain required repayments of Supplemental Unemployment Compensation benefits, Jury duty pay remitted to Employer, Moving Expenses, Interest on Education Loans , Higher Education Expenses, Health Savings Accounts, Costs involving Discrimination Suits, Etc. and Attorney fees relating to Awards to Whistleblowers.

13. AHCT correctly determined the Appellant's daughters social security income of ($1104.00) was excluded income and only used the Appellants earned income ($3268.00) to determine her eligibility for Husky A Medicaid.

14. AHCT correctly determined that household expenses like mortgage, utilities, upkeep of vehicle or food are not allowable deductions.

15. 42 CFR §435.603(d) 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, in determining the eligibility of an individual using MAGI-based income, 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 in the applicable Title of the Act, but not to determine eligibility for a particular eligibility group.

16. Five percent of the FPL for a family of two is $801.00 ($16,020 x .05) per year which was converted to $66.75 ($801.00/ 12) per month.

17. The Appellant's household countable MAGI for a household of two based on the reported income at time of application was $3,201.25 ($3268.00-$66.75) per month.

18. 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.

19. One hundred fifty percent of the FPL for a household of two is $ 2002.50. ($1335 x 1.50).

20. The Appellant's countable MAGI household income of $ 3201.25 per month exceeds the income threshold for Husky A Medicaid for Parents and Caretakers for a household of two, $2002.50.

21. The Appellant is over income for the Medicaid Husky A Medicaid for Parents and Caretakers.

22. AHCT was correct to deny the Appellant's application for Husky A Medicaid for Parents and Caretakers as the Appellant was over the income limit.

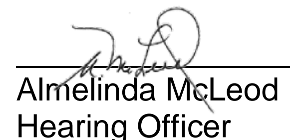
DISCUSSION

The Appellant stated she understands the guidelines of the Husky A Parents and Caretakers program; however wanted to explain the difficulty she has had adapting to being a widow with all the responsibilities of running her home,. paying her bills, the upkeep of her car and taking care that her daughter engages in after school programs because it's important to have a life. The Affordable Care Act implements a standard disregard of 5% FPL. According to policy and regulations, neither household expenses nor upkeep of a vehicle are considered allowable deductions for the determination of Husky A Medicaid.

AHCT was correct to deny the Husky A Medicaid for Parents ad Caretakers because the income of $3268.00 exceeded the limit of $2069.25 ($150 % FPL 2002.50 + 5% FPL $66.75)

DECISION

The Appellant's appeal is DENIED.



Almelinda McLeod
Hearing Officer

CC: Judith Boucher, Health Insurance Exchange, Access Health CT
Temiste King, 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.