

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 ID # ██████████
Hearing Request # 787278

NOTICE OF DECISION

PARTY

██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2016, the Health Insurance Exchange Access Health CT (“AHCT”) as an agent of the Department of Social Services (the “Department”) sent a Notice of Action (“NOA”) discontinuing ██████████ (the “Appellant”) Medicaid/HUSKY A Transitional Medical Assistance (“TMA”) healthcare coverage.

On ██████████ 2016, the Appellant requested a hearing to contest the Department’s discontinuance of the TMA.

On ██████████ 2016, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2016.

On ██████████ 2016, at the request of the Appellant, the OLCRAH issued a notice rescheduling 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
Sabrina Solis, AHCT Representative
Hernold Linton, Observer

Shelley Starr, Observer
Eva Tar, Observer
Scott Zuckerman, Observer
Carla Hardy, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether AHCT correctly discontinued the Medicaid/HUSKY A Transitional Medical Assistance ("TMA") healthcare coverage effective [REDACTED] 2016.

FINDINGS OF FACT

1. The Appellant's household consists of three members that include herself and two minor children ages 16 and 12 (Appellant's Testimony).
2. On [REDACTED] 2015, the Department of Social Services ("DSS") granted HUSKY A TMA healthcare coverage effective [REDACTED] 2015 (Exhibit 1, Notice Content, [REDACTED]/16).
3. On [REDACTED] 2016, the Department discontinued the TMA healthcare coverage effective [REDACTED] 2016 (Exhibit 2: NOA, [REDACTED]/16).
4. The Appellant received TMA from [REDACTED] 2015 through [REDACTED] 2016 (Exhibit 1, Exhibit 2).
5. The Appellant received TMA for twelve months (Fact 4).
6. The Appellant earns \$750.00 weekly (Appellant's Testimony).
7. The Appellant receives \$780.00 monthly in child support (Appellant's Testimony).
8. AHCT reported the Appellant self-declared income totaling \$3,695.85 monthly (Hearing Record).
9. AHCT did not know how the income totaling \$3,695.85 was determined (AHCT's Testimony).
10. The DSS notice dated [REDACTED] 2016 reports the Appellant's income totals \$3,695.85 (\$2,921.85 earnings + \$774.00 child support) (Exhibit 2).
11. The Appellant's children were granted HUSKY B, band 1 healthcare coverage after the termination of the TMA healthcare coverage. The Appellant was approved for a Qualified Health Plan (Hearing Record).

12. The Federal Poverty Limit ("FPL") for a three person household is \$1,680.00 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 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. 26 CFR § 1.36B-1(e)(1) provides in general, household income means the sum of-
 - (i) A taxpayer's modified adjusted gross income (including the modified adjusted gross income of a child for whom an election under section 1(g)(7) is made for the taxable year);
 - (ii) The aggregate modified adjusted gross income of all other individuals who-

- (A) Are included in the taxpayer's family under paragraph (d) of this section;
and
- (B) Are required to file a return of tax imposed by section 1 for the taxable year.

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. 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.
9. Title 26 of the United States Code ("USC) Section 71(a) provides that gross income includes amounts received as alimony or separate maintenance payments.
10. 26 USC §71(c)(1) provides that subsection (a) shall not apply to that part of any payment which the terms of the divorce or separation instrument fix (in terms of an amount of money or a part of the payment) as a sum which is payable for the support of children of the payor spouse.
11. Child support payments are not included in gross income.
12. AHCT incorrectly counted the Appellant's child support as part of her modified adjusted gross income ("MAGI").
13. AHCT incorrectly determined the Appellant's MAGI equaled \$3,695.85 per month.
14. The correct MAGI equals \$3,225.00 ($\750.00×4.3).
15. 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.
16. 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.
17. 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.

- 18.42 CFR §435.603(d) provides for the application of the household's modified adjusted gross income ("MAGI"). A state must subtract an amount equivalent to 5 percentage points of the Federal poverty level for the applicable family size.
19. Five percent of the FPL for a three person household equals \$84.00 ($\$1,680.00 \times .05$).
20. The Appellant's countable MAGI equals \$3,141.00 ($\$3,225.00 - \84.00).
21. The income limit for a parent or caretaker relative equals \$2,520.00 ($\$1,680.00 \times 150$ percent or 1.5 rounded to the nearest dollar) per month.
22. The Appellants MAGI of \$3,141.00 per month exceeds the income limit for a parent or caretaker relative.
23. AHCT correctly determined the Appellant is over income for Medicaid/HUSKY A.
24. The income limit for a child totals \$3,293.00 ($\$1,680.00 \times 196$ percent or 1.96 rounded to the nearest dollar) per month.
25. The Appellant's \$3,141.00 MAGI is below the income limit for persons under the age of nineteen).
26. AHCT incorrectly determined the Appellant's children ineligible for Medicaid/HUSKY A.
27. 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.
28. 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.

29. 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.
30. AHCT correctly determined the Appellant and her children received TMA for twelve months.
31. AHCT correctly discontinued the TMA effective [REDACTED] 2016, after the Appellant and her children received eligibility under that coverage plan for the duration of twelve months.

DISCUSSION

The Transitional Medical Assistance also known as the Extended Medical Assistance program has a twelve month durational period. The Appellant and her children received eligibility under this program from [REDACTED] 2015 through [REDACTED] 2016. They received the TMA for the twelve months that they were eligible for. After the twelve month period ended, the Appellant and her children were reviewed for alternate coverage.

AHCT determined the Appellant and her children were not eligible for HUSKY A based on a monthly income of \$3,695.85. The [REDACTED] 2016 notice from the Department of Social Services shows the Appellant's income totals \$3,695.85 and is derived from \$2,921.85 in earnings and \$774.00 in child support. AHCT incorrectly included the Appellant's child support income when it determined that she and her children did not qualify for Medicaid/HUSKY A and found the Appellant eligible for a Qualified Health Plan and her children eligible for HUSKY B, band 1.

The Appellant's modified adjusted income ("MAGI") appears to be within the income guidelines for Medicaid/HUSKY A for children under the age of nineteen. It is strongly recommended that the Appellant contact AHCT to review her household income and the eligibility for Medicaid for the children.

AHCT was correct to discontinue the TMA effective [REDACTED] 2016 after the Appellant and her children received twelve months of eligibility under this plan.

DECISION

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



Carla Hardy
Hearing Officer

Pc: Sabrina Solis, Health Insurance Exchange Access Health CT
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 06105-3725.

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.

