

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

APPLICATION ID # ██████████

CLIENT ID # ██████████

REQUEST #796848

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2016, the Department of Social Services (the "Department") sent ██████████ (the "Appellant") a Notice of Action ("NOA") stating that her Transitional Medical Assistance ("TMA") healthcare coverage under the Medicaid/Husky A program would be discontinued, effective ██████████ 2016.

On ██████████ 2016, the Appellant requested an administrative hearing to contest the discontinuance of her TMA coverage under the Medicaid/Husky A program.

On ██████████ 2016, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice scheduling a telephonic hearing for ██████████ 2016 @ 1:00 PM.

On ██████████ 2016, in accordance with sections 17b-60, 17-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, OLCRAH held a telephonic hearing.

The following individuals called in for the hearing:

██████████ Appellant (By Telephone)
Stephanie Arroyo, Appeal Coordinator for Access Health CT (By Telephone)
Hernold C. Linton, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department and Access Health CT ("AHCT"), the Health Insurance Exchange agent, correctly discontinued the Appellant's TMA healthcare coverage under the Medicaid/Husky A program, effective ██████████ 2016.

FINDINGS OF FACT

1. Effective [REDACTED] 2015, the Appellant's countable income exceeded the income limit for the Medicaid/Husky A program for parents and caregivers, and for children under 19 years of age, and she was determined eligible for TMA coverage under the Medicaid/Husky A program through [REDACTED] 2016. (Appellant's testimony; Hearing Summary)
2. On [REDACTED] 2016, the Appellant submitted an online application (# [REDACTED]) through AHCT, the Health Insurance Exchange agent for the Department. (Hearing Summary; Dept.'s Exhibit #1: Application Information)
3. The Appellant is seeking healthcare coverage for herself only as her minor child has healthcare coverage under the Medicaid/Husky A program for children, through [REDACTED] 2017. (Appellant's testimony)
4. The Appellant is 51 years of age (DOB [REDACTED]/65). (Dept.'s Exhibit #1)
5. The Appellant resides with her minor child, and filed her taxes as head of household, claiming the minor child as her dependent. (Hearing Summary; Dept.'s Exhibit #1)
6. The Appellant and her minor child are citizens of the United States. (Hearing Summary; Dept.'s Exhibit #1)
7. The Appellant has a household consisting of two (2) members. (Hearing Summary; Dept.'s Exhibit #1)
8. The Appellant self-declared monthly income of \$2,740.00, and annual income of \$32,400.00 in alimony. (Appellant's testimony; Hearing Summary; Dept.'s Exhibit #1)
9. AHCT excluded the Appellant's child support income from consideration. (Appellant's testimony)
10. The income limit for the Medicaid/Husky A program for parents and caregivers for a household consisting of two (2) members is \$2,069.25 per month, or 155% of the Federal Poverty Level ("FPL") for 2, including the 5% of the FPL income disregard. (Hearing Summary)
11. The income limit for the Medicaid/Husky A program for children in a household consisting of two (2) members is \$2,683.35 per month, or 201% of the FPL for 2, including the 5% of the FPL income disregard. (Hearing Summary)
12. On [REDACTED] 2016, the Department sent the Appellant a Notice of Action discontinuing her TMA healthcare coverage under the Medicaid/Husky A program,

effective [REDACTED] 2016, the end of her twelve months transitional period. (Appellant's testimony; Hearing Summary)

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. 42 CFR § 435.603(e) provides in part 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) Certain American Indian/Alaska Native distributions.
6. 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.
7. Title 26 of the IRC Chapter 1 Subchapter A Part 1 section 1.71-1T provides for child support; A payment which under the terms of the divorce or separation instrument is fixed (or treated as fixed) as payable for the support of a child of the payor spouse does not qualify as an alimony or separate maintenance payment. Thus, such a payment is not deductible by the payor spouse or includible in the income of the payee spouse.
 8. AHCT correctly determined the Appellant's total countable income as \$2,740.00 per month.
 9. 42 CFR § 435.603 (f)(1) provides in part that an individual who expects to file tax return for the taxable year in which an initial determination or renewal of eligibility is being made, and who does not expected to be claimed as a tax dependent by another taxpayer, the household consists of the tax payer and, subject to paragraph (f)(5) of this section, all persons whom such individual expects to claim as tax dependent.
 10. AHCT correctly determined that the Appellant has a household consisting of two (2) members.
 11. 42 CFR § 435.603 (f)(2)(iii)(3)(iii) provides in part that individuals under the age 19 who expect to be claimed as a tax depended by a non-custodial parent, the household consist of the individual and, the individual's natural, adopted, and step parents and natural, adoptive and step siblings under the age specified in paragraph (f)(3)(iv) of this section.
 12. 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.
 13. 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.
 14. 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.

15. One hundred and fifty percent of the FPL for a household of two is \$2,002.50 (\$2,069.25, with the 5% of the FPL added), or (\$1,335.00, FPL for 2; multiplied by 150%) per month.
16. One hundred and ninety-six percent of the FPL for a household of two is \$2,616.60 (\$2,683.35, with the 5% of the FPL added), or (\$1,335.00, FPL for 2; multiplied by 196%) per month.
17. 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.
18. Five percent of the FPL for a household of two equals \$66.75 (\$1,335.00, FPL for 2; multiplied by 5%).
19. The Appellant's MAGI equals \$2,403.25 per month (\$2,470.00, monthly income; minus \$66.75, 5% of the FPL for 2).
20. The Appellant's monthly countable MAGI of \$2,403.25 exceed the income limit for the Medicaid/Husky A program for parents and caregivers consisting of two members of \$2,002.50 per month.
21. 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.
22. UPM § 2540.09 (A) (1) provides in part 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.
23. 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 Husky A F07.

24. AHCT correctly determined the Appellant became eligible for TMA, effective [REDACTED] 2015, when her countable income exceeded the income limit for a household of two.
25. AHCT correctly determined that Appellant's eligibility for the TMA ended on [REDACTED] 2016, twelve months after her eligibility for regular Medicaid/HUSKY A (F07) ended.
26. The Department correctly determined that the Appellant does not qualify for on-going coverage under the Medicaid/HUSKY A-Parents & Caregivers program, as her gross countable income exceeds the program's income limit for her family size.
32. The Department correctly discontinued the Appellant's TMA healthcare coverage under the Medicaid/Husky A program, effective [REDACTED] 2016, the end of her twelve months eligibility period.

DISCUSSION

The TMA healthcare coverage under the Medicaid/Husky A program offers twelve months of continued coverage when an active family loses their eligibility for Husky A (F07) due to increased earnings. The Appellant was granted twelve months of TMA coverage under the Medicaid/Husky A program, effective [REDACTED] 2015. However, under the Federal Affordable Care Act and the State's Medicaid Plan, there is no on-going eligibility at this time for the Appellant, as her countable monthly income (MAGI) exceeds the income limit for the Medicaid/Husky A program for parents and caregivers. Consequently, the Department correctly discontinued the Appellant's TMA healthcare coverage under the Medicaid/Husky A program, effective [REDACTED] 2016, the end of her transitional eligibility period.

DECISION

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

Hernold C. Linton

Hernold C. Linton
Hearing Officer

Pc: **Judy Boucher**, Appeal Supervisor,
Health Insurance Exchange, Access Health CT,

Stephanie Arroyo, Appeal Coordinator,
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 Primary 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, law, and 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, 25 Sigourney Street, Hartford, CT 06106.

There is no right to request reconsideration for denials or reductions of Advanced Primary 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, if 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.