

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

██████████ 2017  
Signature Confirmation

Client ID #  
██████████  
Request # 802548

**NOTICE OF DECISION**

**PARTY**

██████████  
██  
██████████  
██

**PROCEDURAL BACKGROUND**

On ██████████ 2016, the Health Insurance Exchange Access Health CT (“AHCT”) sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) discontinuing his Medicaid Husky D healthcare coverage.

On ██████████ 2016, the Appellant requested an administrative hearing to contest the Department’s decision to discontinue such benefits.

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

On ██████████ 2016, the Appellant requested a continuance of the hearing, which was granted.

On ██████████ 2016, the OLCRAH issued a notice scheduling the administrative hearing for ██████████ 2017.

On ██████████ 2017, the Appellant requested a continuance of the hearing, which was granted.

On ██████████ 2017, the OLCRAH issued a notice scheduling the administrative hearing for ██████████ 2017.

On [REDACTED] 2017, 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 by telephone.

The following individuals called in for the hearing:

[REDACTED] Appellant  
 Masuma, ID #6257, Medical Translator, Language Select  
 [REDACTED], Director of Social Services, [REDACTED]  
 [REDACTED], Business Office Manager, [REDACTED]  
 Judith Boucher, AHCT Representative  
 Rita Baboolal, AHCT Representative  
 Lisa Nyren, Fair Hearing Officer

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether Access Health CT (“AHCT”), the Health Insurance Exchange agent, correctly discontinued the Appellant’s healthcare coverage under the Medicaid/Husky D program effective [REDACTED] 2016.

### **FINDINGS OF FACT**

1. On [REDACTED] 2013, the Appellant received lawful permanent residency status from the United States Citizenship and Immigration Services (“USCIS”). (Exhibit 2: SAVE Case Details and Appellant’s Testimony)
2. The Appellant entered the United States (“US”) in 2007 without papers from India and returned at least two more times to the US without papers before receiving lawful permanent residency status from the USCIS in 2013. (Appellant’s Testimony)
3. On [REDACTED] 2016, the Appellant submitted an online change reporting application # [REDACTED] through AHCT. (Exhibit 1: Application [REDACTED])
4. The Appellant is age sixty-two (62) born on [REDACTED] 1954. (Exhibit 1: Application [REDACTED] and Exhibit 2: SAVE Case Details)
5. The Appellant resides at [REDACTED] Care Center, a long term care nursing facility. (Exhibit 1: Application [REDACTED] and Appellant’s Testimony)

6. AHCT determined the Appellant ineligible for Medicaid Husky D because he does not meet the non-citizen criteria under Medicaid. (Hearing Summary and Exhibit 4: Change Reporting Notice)
7. On ██████████ 2016, AHCT issued a notice to the Appellant. The notice stated the Appellant is not eligible for Husky Medicaid because he has not been a lawful permanent resident of the United States for 5 or more years. (Exhibit 4: Change Reporting Notice)

### **CONCLUSIONS OF LAW**

1. Connecticut General Statutes (“CGS”) § 17b-260 provides that 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. Statute provides that 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. (CGS § 17b-264)
3. Title 45 of the Code of Federal Regulations (“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.
4. Title 45 of the 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) or this section that is designated by the Exchange, if the Exchange establishes an appeals process in accordance with the requirements of this subpart.

5. Title 45 of the CFR § 155.505(d) provides that an appeals process established under this subpart must comply with § 155.110(a).
6. Title 42 of the CFR § 435.406(a)(2)(i) provides that the agency must provide Medicaid to otherwise eligible individuals who are-except as specified in 8 U.S.C. 1612(b)(1) (permitting States an option with respect to coverage of certain qualified non-citizens), qualified non-citizens as described in section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641)(including qualified non-citizens subject to the 5 year bar) who have provided satisfactory documentary evidence of Qualified Non-Citizen status, which status has been verified with the Department of Homeland Security (DHS) under a declaration required by section 1137(d) of the Act that the applicant or beneficiary is a non-citizen in a satisfactory immigration status.
7. Title 8 of the United States Code (“U.S.C.”) § 1641(b) provides for the purposes of this chapter, the term “qualified alien” means an alien who, at the time the alien applies for, receives, or attempts to receive a Federal public benefit, is-
  1. An alien who is lawfully admitted for permanent residence under the Immigration and nationality Act [8 U.S.C. 1101 et seq.],
  2. An alien who is granted asylum under section 208 of such Act [8 U.S.C. 1158],
  3. A refugee who is admitted to the United States under section 207 of such Act [8 U.S.C. 1157],
  4. An alien who is paroled into the United States under section 212(d)(5) of such Act [8 U.S.C. 1182(d)(5)] for a period of at least 1 year,
  5. An alien who deportation is being withheld under section 243(h) of such Act [8 U.S.C. 1253] 9as in effect immediately before the effective date of section 307 of division C of Public Law 104-208) or section 241(b)(3) of such Act [8U.S.C. 1231(b)(3)] (as amended by section 305(a) of division C of Public Law 104-208),
  6. An alien who is granted conditional entry pursuant to section 203(a)(7) of such Act [8 U.S.C. 1153(a)(7) as in effect prior to April 1, 1980, or
  7. An alien who is a Cuban and Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980).
8. Title 8 of the U.S.C. § 1613 provides that notwithstanding any other provision of law and except as provided in subsections (b), (c), and (d) of this section, an alien who is a qualified alien (as defined in section 1641 of this title) and who enters the United States on or after August 22, 1996, is not eligible for any Federal means-tested public benefit for a period of 5 years beginning on the date of the alien’s entry into the United States with a status within the meaning of the term “qualified alien.”

9. Title 42 of the CFR § 435.406(a)(2)(ii) provides that the eligibility of qualified non-citizens who are subject to the 5 year bar in 8 U.S.C. 1613 is limited to the benefits described in paragraph (b) of this section.
10. Title 42 of the CFR § 435.406(c) provides that the agency must verify the declaration of citizenship or satisfactory immigration status under paragraph (a)(1) or (2) of this section in accordance with § 435.956.
11. AHCT correctly determined the Appellant a qualified alien.
12. AHCT correctly determined the Appellant subject to the 5 year bar under Medicaid.
13. AHCT correctly determined the Appellant ineligible under Medicaid because he has not resided in the United States for a minimum of 5 years.
14. AHCT correctly denied the Appellant's change reporting application for Medicaid under the Husky D program and discontinued the Appellant's Medicaid benefits effective [REDACTED] 2016.

**DECISION**

The Appellant's appeal is DENIED.

  
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Lisa A. Nyren  
Fair Hearing Officer

CC: Judith Boucher, Appeal Supervisor, Health Insurance Exchange, Access Health CT  
Rita Baboolal, 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.

