STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06106-5033

[redacted] **2017**
Signature Confirmation

Client ID # [redacted]
Request # 808386

NOTICE OF DECISION

PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted] 2017, the Department of Social Service (the Department) sent [redacted] (the "Appellant") a Notice of Action ("NOA") discontinuing her medical benefits under the HUSKY A Medicaid for Parents and Caretakers ("Husky A") with the reason noted as "call your worker."

On [redacted] 2017, the Appellant requested an administrative hearing to contest the discontinuance of medical benefits.

On [redacted] 2017, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for [redacted] 2017.

On [redacted] 2017, in accordance with sections 17b-60, 17-61 and 4-176e to 4-184 inclusive, of the Connecticut General Statutes, and 45 C.F.R. §§ 155.505 (b) and 155.510, OLCRAH held an administrative hearing.

The following individuals participated in the hearing:

[redacted] Appellant
[redacted] Appellant's witness
Jacqueline Taft, Department's Representative
Marci Ostroski, Hearing Officer

The hearing record remained open for the submission of additional documentation. Exhibits were received from the Department and from the Appellant and the record closed on [redacted] 2017.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly discontinued the Appellant's Husky A medical assistance for failure to cooperate with an investigation.

FINDINGS OF FACT

1. The Appellant was an active recipient of HUSKY A Medicaid for Parents and Caretakers and her children were active recipients of HUSKY A Medicaid for children. (Ex. 3: STAT screen, X25, Ex. 4: STAT screen, X07)

2. On [redacted] 2016, the Department referred the Appellant's case to the Fraud Division regarding suspected unreported income. (Ex. 2: Narrative)

3. On [redacted] 2016, the Department issued a 1348 Verification We Need form to the Appellant with a due date of [redacted] 2016, requesting verification of the Appellant's income via her bank statements. (Ex. 2: Narrative, Ex. G: 1348 Verification We Need form)

4. On [redacted] 2016, the Department determined that the Appellant did not provide any of the verifications requested on the 1348 Verification We Need form and discontinued the Appellant's SNAP and HUSKY A Medicaid benefits because the Appellant did not cooperate with a departmental investigation. (Ex. 2: Narrative)

5. The Appellant did not cooperate with the Fraud Division's investigation. (Ex. 2: Narrative, Hearing Summary)

6. On [redacted] 2017, the Appellant contacted the Department's benefit center to request medical assistance for herself and her children. (Ex. 5: STAT screen, Ex. 6: STAT screen, Ex. 2: Narrative)

7. The Department reinstated the Appellant's HUSKY A Medicaid for Parents and Caretakers and HUSKY A for Children in error. The Department did not verify that the Appellant cooperated with the fraud investigation before reinstating her HUSKY A Medicaid programs. (Ex. 2: Narrative)

8. On [redacted] 2017, because the Appellant had not cooperated with the Department's investigation, the Department discontinued the Appellant's

HUSKY A medical benefits with the reason noted as “call your worker.” (Ex. 1: Discontinuance Notice dated [redacted]/17)

CONCLUSIONS OF LAW

1. Section 17b-260 of the Connecticut State Statutes. 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. Title 45 of the Code of Federal Regulations (“CFR’) § 155.110(a) 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: (1) An entity: (i) Incorporated under, and subject to the laws of, one or more States;(ii) That has demonstrated experience on a State or regional basis in the individual and small group health insurance markets and in benefits coverage; and(iii) Is not a health insurance issuer or treated as a health insurance issuer under subsection (a) or (b) of section 52 of the Code of 1986 as a member of the same controlled group of corporations (or under common control with) as a health insurance issuer; or (2) The State Medicaid agency, or any other State agency that meets the qualifications of paragraph (a)(1) of this section.

3. 42 CFR 435.907(a) provides in part for Medicaid applications; *Basis and implementation.* In accordance with section 1413(b)(1)(A) of the Affordable Care Act, the agency must accept an application from the applicant, an adult who is in the applicant's household, as defined in §435.603(f), or family, as defined in section 36B(d)(1) of the Code, an authorized representative, or if the applicant is a minor or incapacitated, someone acting responsibly for the applicant, and any documentation required to establish eligibility—(2)By telephone;

4. Uniform Policy Manual (‘UPM”) § 1005.05(D) provides for the rights of applicants and recipients, right to participate in the application process; Right to Reapply; The assistance unit has the right to reapply at any time

after it has been discontinued or has withdrawn its application for assistance.

5. The Department correctly determined that the Appellant's [redacted] 2017 phone call requesting medical assistance was an application.

6. UPM § 1015.10(A) provides that the Department must inform the assistance unit regarding the eligibility requirements of the programs administered by the Department, and regarding the unit's rights and responsibilities.

7. UPM § 3525.05 provides that as a condition of eligibility, members of the assistance unit are required to cooperate in the initial application process and in reviews, including those generated by reported changes, redeterminations and Quality Control.

8. UPM § 3525.05(A)(2)(b) provides that at **any** review of eligibility, including reviews generated by reported changes and redeterminations and Quality Control reviews, members of the assistance unit must cooperate by responding to a scheduled appointment for an interview. (Emphasis added)

9. UPM § 3525.05(B)(2) provides that the entire assistance unit is ineligible when a member of the assistance unit refuses to cooperate with the eligibility review process.

10. UPM § 3525.05(B)(2) a provides that for reviews other than quality control, ineligibility continues until the individual who caused the penalty cooperates, or until another qualified member of the assistance unit cooperates in completing the review.

11. Before granting and discontinuing the [redacted] 2017 application for medical assistance the Department failed to send the Appellant an application requirements list requesting information needed to establish eligibility and that she must meet and cooperate with the Department's Investigations Division.

12. The Department was incorrect to regrant HUSKY A medical benefits because the Appellant had failed to comply with a Department's review. The Department was then incorrect to discontinue the medical benefits because the Department had failed to inform the Appellant of the actions she need to take to establish eligibility for Medicaid, after her new application for assistance on [redacted] 2017.

13. UPM §1500.01 provides for the definition of adequate notice and states that adequate notice is a notice of denial, discontinuance, or reduction of assistance which includes a statement of the Department's intended action, the reasons for the intended action, the specific regulations supporting such action, an explanation of the assistance unit's right to request a Fair Hearing to contest the action, and the circumstances under which benefits are continued if the unit requests a Fair Hearing.

14. The Department failed to send the Appellant appropriate notice regarding the discontinuance of her HUSKY A.

DISCUSSION

The Appellant had been receiving HUSKY A medical benefits through the Department and failed to cooperate with the Department's investigation, resulting in her family being discontinued from the medical assistance. Rather than cooperate with the investigation, the Appellant re-applied for medical assistance through the benefit center. Because her household income fell within the limits, the Department initially determined that the Appellant and her family were eligible for HUSKY A. However, when the Department recognized their error the Department discontinued her medical benefits due to her previous failure to cooperate with its investigation.

Regulations provide that an individual has the right to apply or reapply for assistance at any time. The Affordable Care Act specifies that a request for assistance via telephone constitutes an application. The Appellant's [redacted] 2017 phone call is in fact a new application for assistance.

The evidence submitted clearly reflects that in the past the Department has communicated to the Appellant on multiple occasions what she needed to do to reestablish eligibility. The Department, however, did not properly act on the [redacted] 2017 phone call as a new application for assistance and send the Appellant a written request for information on this application.

Additionally the Notice of Discontinuance was insufficient because it did not clearly give the reason for closure rather it simply stated "call your Worker".

DECISION

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

ORDER

1. The Department will rescreen and leave pending the Appellant's HUSKY A Medicaid programs with the original reapplication date of [redacted] 2017.

2. The Department will send written notification to the Appellant requesting the specific verifications needed and informing her that she must cooperate with the Department of Social Services Investigations Division before her eligibility for HUSKY A can be determined.

3. The Appellant will be given a minimum of 10 days to submit the verifications requested before a new eligibility determination is made.

4. Compliance with this order shall be forwarded to the undersigned no later than 10 days from the date of this notice [redacted] 2017.

Marci Ostroski
Hearing Officer

Cc:
Lisa Wells, Brian Sexton, Operations Managers, New Haven Regional Office
Cheryl Stuart, Program Manager, New Haven Regional Office
Jacqueline Taft, Fair Hearing Liaison, New Haven Regional Office

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 Administrative Hearings and Appeals, 55 Farmington Avenue, Hartford, CT 06105-3725.

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 the Commissioner's 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.