STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105

[redacted] 2017
Signature confirmation

Client: [redacted]
Request: 809361
Application: [redacted]

NOTICE OF DECISION

PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted] 2016, the Access Health Connecticut ("AHCT"), Connecticut's Health Insurance Exchange, issued [redacted] (the "Appellant") a notice discontinuing her HUSKY D/Medicaid coverage, effective [redacted] 2016.

On [redacted] 2017, the Appellant filed a request with the Office of Legal Counsel, Regulations and Administrative Hearings ("OLCRAH") to dispute the discontinuance. The Appellant is seeking retroactive medical coverage for [redacted] 2017.

On [redacted] 2017, the OLCRAH issued a notice to the Appellant, scheduling the administrative hearing for [redacted] 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. The following individuals participated in the administrative hearing:

[redacted] Appellant
Judy Boucher, AHCT Supervisor
Eva Tar, Hearing Officer

The hearing record was closed on [redacted] 2017.

STATEMENT OF ISSUE

The issue to be decided is whether ACHT correctly determined that the Appellant's household's monthly income rendered the household ineligible for HUSKY D/Medicaid coverage, effective [redacted] 2016.

FINDINGS OF FACT

1. The Appellant's date of birth is [redacted] 1971. (AHCT's Exhibit 1: Application, [redacted]/16)

2. The Appellant is not pregnant and has not recently given birth. (Appellant's testimony)

3. The Appellant's spouse's date of birth is [redacted] 1956. (AHCT's Exhibit 1)

4. The Appellant and her spouse have resided at [redacted] (the "home address") for four years. (Appellant's testimony)

5. The Appellant is not employed. (Appellant's testimony)(AHCT's Exhibit 6: Correspondence, [redacted]/16)

6. The Appellant's spouse works a part-time job. (AHCT's Exhibit 6)

7. In the four-week period for pay dates covering [redacted] 2016 through [redacted] 2016, the Appellant's spouse grossed $1,732.49 in wages. (AHCT's Exhibit 6)

8. The Appellant's spouse receives partial unemployment compensation benefits. (AHCT's Exhibit 6)

9. In the four-week period from [redacted] 2016 through [redacted] 2016, the Appellant's spouse grossed $809.00 in unemployment compensation benefits. (AHCT's Exhibit 6)

10. On [redacted] 2016, the AHCT received verification of the Appellant's spouse's receipt of wages and unemployment compensation benefits. (AHCT's representative's testimony)

11. AHCT calculated the Appellant's projected household income to equal $2,732.10 per month, based on individual averages of the Appellant's spouse's verified wages and unemployment compensation benefits, multiplied by 4.3 weeks per month. (AHCT's representative's testimony)

12. On [redacted] 2016, AHCT issued a notice to the Appellant stating that her health care application had been updated. (AHCT's Exhibit 2: Correspondence, [redacted]/16)

13. Page 4 of the 10-page notice issued by AHCT to the Appellant on [redacted] 2016 stated that the Appellant and her spouse's HUSKY D/Medicaid coverage would end effective [redacted] 2016. (AHCT's Exhibit 2)

14. On [redacted] 2016, AHCT issued a notice to the Appellant's spouse, as the Appellant's authorized representative, stating that her health care application had been updated. (AHCT's Exhibit 2: Correspondence, [redacted]/16)

15. Page 4 of the 10-page notice issued by AHCT to the Appellant's spouse on [redacted] 2016 stated that the Appellant and her spouse's HUSKY D/Medicaid coverage would end effective [redacted] 2016. (AHCT's Exhibit 2)

16. The Appellant did not personally receive the [redacted] 2016 notice. (Appellant's testimony)

17. The Appellant is seeking medical coverage for [redacted] 2017. (Appellant's testimony)(Hearing request)

CONCLUSIONS OF LAW

1. 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. Conn. Gen. Stat. § 17b-260.

2. 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. Conn. Gen. Stat. § 17b-264.

3. Title 45, Code of Federal Regulations ("C.F.R.") § 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.

4. **Application of modified adjusted gross income (MAGI).** (a) *Basis, scope, and implementation.* (1) This section implements section 1902(e)(14) of the Act. (2) Effective January 1, 2014, the agency must apply the financial methodologies set forth in this section in determining the financial eligibility of all individuals for Medicaid, except for individuals identified in paragraph (j) of this section and as provided in paragraph (a)(3) of this section. 42 C.F.R. § 435.603 (a).

5. *Family size* means the number of persons counted as members of an individual's household. In the case of determining the family size of a pregnant woman, the pregnant woman is counted as herself plus the number of children she is expected to deliver. In the case of determining the family size of other individuals who have a pregnant woman in their household, the pregnant woman is counted, at State option, as

either 1 or 2 person(s) or as herself plus the number of children she is expected to deliver. 42 C.F.R. § 435.603 (b).

6. *Married couples.* In the case of a married couple living together, each spouse will be included in the household of the other spouse, regardless of whether they expect to file a joint tax return under section 6013 of the Code or whether one spouse expects to be claimed as a tax dependent by the other spouse. 42 C.F.R. § 435.603 (f)(4).

7. AHCT correctly determined that the Appellant's household was composed of two individuals.

8. *Basic rule.* Except as specified in paragraph (i), (j), and (k) of this section, the agency must determine financial eligibility for Medicaid based on "household income" as defined in paragraph (d) of this section. 42 C.F.R. § 435.603 (c).

9. 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 included in the individual's household. 42 C.F.R. § 435.603 (d)(1).

10. *Eligibility Groups for which MAGI-based methods do not apply.* The financial methodologies described in this section are not applied in determining the Medicaid eligibility of individuals described in this paragraph. The agency must use the financial methods described in §435.601 and §435.602 of this subpart.

    (1) Individuals whose eligibility for Medicaid does not require a determination of income by the agency, including, but not limited to, individuals receiving Supplemental Security Income (SSI) eligible for Medicaid under §435.120 of this part, individuals deemed to be receiving SSI and eligible for Medicaid under §435.135, §435.137 or §435.138 of this part and individuals for whom the State relies on a finding of income made by an Express Lane agency, in accordance with section 1902(e)(13) of the Act.

    (2) Individuals who are age 65 or older when age is a condition of eligibility.

    (3) Individuals whose eligibility is being determined on the basis of being blind or disabled, or on the basis of being treated as being blind or disabled, including, but not limited to, individuals eligible under §435.121, §435.232 or §435.234 of this part or under section 1902(e)(3) of the Act, but only for the purpose of determining eligibility on such basis.

    (4) Individuals who request coverage for long-term care services and supports for the purpose of being evaluated for an eligibility group under which long-term care services and supports not covered for individuals determined eligible using MAGI-based financial methods are covered, or for individuals being evaluated for an eligibility group for which being institutionalized, meeting an institutional level of care or satisfying needs-based criteria for home and community based services is a condition of eligibility. For purposes of this paragraph, "long-term care services and supports" include nursing facility services, a level of care in any institution equivalent to nursing facility services; and home and community-based services furnished under a waiver or State plan under sections 1915 or 1115 of the Act; home health services as described in sections 1905(a)(7) of the Act and personal care services described in sections 1905(a)(24) of the Act.

(5) Individuals who are being evaluated for eligibility for Medicare cost sharing assistance under section 1902(a)(10)(E) of the Act, but only for purposes of determining eligibility for such assistance.

(6) Individuals who are being evaluated for coverage as medically needy under subparts D and I of this part, but only for the purpose of determining eligibility on such basis. 42 C.F.R. § 435.603 (j).

11. AHCT correctly determined that the Appellant and her spouse are subject to the MAGI-based methods, with respect to determining eligibility for HUSKY-D/Medicaid, as they are not individuals' whose circumstances meet the criteria set in 42 C.F.R. § 435.603 (j).

12. *Budget period—*

(1) *Applicants and new enrollees.* Financial eligibility for Medicaid for applicants, and other individuals not receiving Medicaid benefits at the point at which eligibility for Medicaid is being determined, must be based on current monthly household income and family size.

(2) *Current beneficiaries.* For individuals who have been determined financially-eligible for Medicaid using the MAGI-based methods set forth in this section, a State may elect in its State plan to base financial eligibility either on current monthly household income and family size or income based on projected annual household income and family size for the remainder of the current calendar year.

(3) In determining current monthly or projected annual household income and family size under paragraphs (h)(1) or (h)(2) of this section, the agency may adopt a reasonable method to include a prorated portion of reasonably predictable future income, to account for a reasonably predictable increase or decrease in future income, or both, as evidenced by a signed contract for employment, a clear history of predictable fluctuations in income, or other clear indicia of such future changes in income. Such future increase or decrease in income or family size must be verified in the same manner as other income and eligibility factors, in accordance with the income and eligibility verification requirements at §435.940 through §435.965, including by self-attestation if reasonably compatible with other electronic data obtained by the agency in accordance with such sections. 42 C.F.R. § 435.603 (h).

There are 52 weeks in a year; there are 12 months in a year.
There are 4.3 weeks in a month. [52 weeks divided by 12 months]

13. AHCT's method of determining the Appellant's household's projected monthly income by calculating a representative average of the income sources and pro-rating that averaged income over a 4.3-week period is a reasonable method.

14. *Eligibility.* Effective January 1, 2014, the agency must provide Medicaid to individuals who: (1) Are age 19 or older and under age 65; (2) Are not pregnant; (3) Are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act; (4) Are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part; and (5) Have household income that is at or below 133 percent FPL for the applicable family size. 42 C.F.R. § 435.119 (b).

In 2016, the Federal Poverty Limit for a household of two living in Connecticut was $16,020.00 per year, or $1,335.00 per month.

In 2016, one hundred and thirty-three percent of the Federal Poverty Level for a household of two living in Connecticut was $1,775.55 per month.

15. 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. 42 C.F.R. § 435.603 (d)(4).

16. Allowing for a five-percentage-point disregard of the Federal Poverty Level for MAGI-based income, the HUSKY D/Medicaid income limit for a household of two living in Connecticut equaled $1,842.30 per month, or 138 percent of the Federal Poverty Level, in 2016.

17. On [redacted] 2016, AHCT correctly determined that the Appellant's household's projected monthly income of $2,732.10 exceeded $1,842.30, or 138 percent of the Federal Poverty Level for a household of two living in Connecticut.

18. ACHT correctly determined that the Appellant's household's projected monthly income rendered the household ineligible for HUSKY D/Medicaid coverage.

DECISION

The Appellant's appeal is DENIED.

Eva Tar-electronic signature
Eva Tar
Hearing Officer

cc: Judith Boucher, AHCT

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.