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

[redacted] 2017
Signature Confirmation

Client ID # [redacted]
Request # 814035

NOTICE OF DECISION

PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted] 2017, the Health Insurance Exchange Access Health CT ("AHCT") sent [redacted] (the "Appellant") a Notice of Action ("NOA) discontinuing her Medicaid Husky D healthcare coverage.

On [redacted] 2017, the Appellant requested an administrative hearing to contest the Department's decision to discontinue such 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, the OLCRAH ordered a continuance due to inclement weather.

On [redacted] 2017, the 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 4-189 inclusive, of the Connecticut General Statutes, OLCRAH held an administrative hearing by telephone.

The following individuals called in for the hearing:

[redacted] Appellant
Stephanie Arroyo, Appeals Coordinator and 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 ("Husky D") effective [redacted] 2017.

FINDINGS OF FACT

1. The Appellant received medical assistance under the Husky D program for herself. (Hearing Record)

2. The Appellant is fifty-eight (58) years old born on [redacted] 1958. (Appellant's Testimony and Exhibit 1: Application # [redacted]

3. The Appellant works part time for [redacted] (the "temporary agency"), a temporary agency after being laid off from her previous employer on [redacted] 2016. The Appellant earns $16.00 per hour. The Appellant received the following paystubs: (Exhibit 2: Paystubs and Appellant's Testimony)

Pay Date	Hours	Rate	Gross Wages
[redacted] 2017	18.00	$16.00	$288.00
[redacted] 2017	19.50	$16.00	$312.00
[redacted] 2017	20.00	$16.00	$320.00
[redacted] 2017	24.00	$16.00	$384.00

4. On [redacted] 2017, AHCT submitted a paper change reporting application #[redacted] after receiving verification of wages from the Appellant that included pay date [redacted]/17, pay date [redacted]/17, pay date [redacted]/17, and pay date [redacted]/17. (Exhibit 1: Application #[redacted] Exhibit 2: Paystubs, and Department Representative's Testimony)

5. The Husky D income limit for a household of one is $1,387.00. (Hearing Summary and Department Representative's Testimony

6. AHCT determined the Appellant ineligible for Husky D effective [redacted] 2017 because her gross monthly income of $1,401.80 exceeds the Husky D income limit of $1,387.00. ([redacted]/17 $288.00 + [redacted]/17 $312.00 + [redacted]/17 $320.00 + [redacted]/17 $384.00 = $1304.00 / 4 = $326.00 x 4.3 = $1,401.80) (Exhibit 3: Notice of Action [redacted]/17 and Department Representative's Testimony)

7. On [redacted] 2017, AHCT issued a notice to the Appellant. The notice stated the Appellant is not eligible for medical benefits under the Husky D program because her income of $1,401.80 per month exceeds the Husky D income limit of $1,387.00. (Exhibit 3: Notice of Action [redacted]/17)

8. The Appellant receives unemployment compensation benefits ("UCB") that vary each week depending on the number of hours she works at the temporary agency. (Appellant's Testimony)

9. In [redacted] 2017, the Appellant began working full time for the temporary agency working 40 hours per week earning $16.00 per hour. (Appellant's Testimony)

CONCLUSIONS OF LAW

1. Connecticut General Statutes ("Conn. Gen. Stats.") § 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 Husky D or Medicaid Coverage for the Lowest Income Populations program means Medicaid provided to non-pregnant low-income adults who are age 18 to sixty-four, as authorized pursuant to section 17b-8. [Conn. Gen. Stats. § 17b-290(16)]

3. 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. (Conn. Gen. Stats. § 17b-264)

4. 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.

5. 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.

6. Title 45 of the CFR § 155.505(d) provides that an appeals process established under this subpart must comply with § 155.110(a).

7. Title 42 of the CFR § 435.119 provides for coverage for individual age 19 or older and under age 65 at or below 133 percent FPL.

    a. Basis. This section implements section 1902(a)(10)(A)(i)(VIII) of the Act.
    b. 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.

8. Effective [redacted] 2017, the Federal Poverty Limit ("FPL") for a household of one is $1,005.00 per month. ($12,060.00 per year / 12 months = $1,005.00 per month) [Federal Register, Vol. 82, No. 19, [redacted] 2017, pp. 8831-8832]

9. The Medicaid income limit for a household of one is $1,337.00 for individuals age 19 or older and under age 65. ($1,005.00 x 133% = $1,336.65 per month)

10. Title 42 of the CFR 435.603(a)(2) provides that 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 individual identifies in paragraph (j) of this section and as provided in paragraph (a)(3) of this section.

11. Title 42 of the CFR § 435.603(b) defines *family size* as 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 individual 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 expect to deliver.

12. Title 42 of the CFR 435.603(f)(1) provides for the basic rule for taxpayers not claimed as a tax dependent. In the case of an individual who expects to file a tax return for the taxable year in which an initial determination of renewal of eligibility is being made, and who does not expect to be claimed as a tax dependent by another taxpayer, the household consists of the taxpayer and, subject to paragraph (f)(5) of this section, all persons who such individual expects to claim as a tax dependent.

13. Title 42 of the CFR § 435.603(c) provides that 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.

    Title 42 of the CFR § 435.603(d)(1) provides for household income. 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.

14. Title 42 of the CFR § 435.603(d)(4) provides that 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.

15. Five percent (5%) of the FPL for a household of one equals 50.00. ($1,005.00 x 5% = $50.25)

16. Title 42 of the CFR § 435.603(e) provides for MAGI-based income. For the purposes of this section, 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. Provides for American Indian/Alaska Native exceptions.

    United States Code ("U.S.C.") § 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.

17. AHCT correctly determined a household of one.

18. AHCT correctly determined the household's monthly gross income as $1,401.80.

19. The Appellant's countable income of $1,351.80 exceeds the Medicaid income limit of $1,337.00 for a household of one. ($1,401.80 monthly gross income - $50.00 5% of FPL = $1,351.80 monthly countable income) Refer to Conclusion of Law ("COL") # 9 and #15.

20. AHCT determined the Medicaid Husky D program income limit as $1,387.00 per month by adding 5% of the FPL to the Medicaid income limit for a household of one rather than subtracting the 5% of the FPL from the Appellant's gross wages. Refer to COL # 9 and # 15. (1,337.00 133% of FPL for 1 + $50.00 5% of FPL for 1 = $1,387.00) The result is the same; the Appellant's income exceeds the Medicaid income limit.

21. AHCT correctly determined the Appellant ineligible for Husky D because the Appellant's income exceeds the Husky D income limit for a household of one.

22. AHCT correctly discontinued the Appellant's Medicaid benefits under the Husky D program effective [redacted] 2017.

DISCUSSION

AHCT determined the Appellant ineligible under the Husky D program based on the Appellant's part time wages. At the administrative hearing, the Appellant reported receipt of unemployment compensation benefits ("UCB") in addition to her part time wages and recent changes to her schedule from part time work to full time work based on the tax season. This information was not available at the time of AHCT's determination; however both unemployment compensation and the increase in hours worked from part time employment to full time employment would have increased the Appellant's gross income causing the same result, ineligibility for the Husky D program.

DECISION

The Appellant's appeal is DENIED.

Lisa A. Nyren
Fair Hearing Officer

CC: Cynthia Perry, Appeals Manager, Health Insurance Exchange Access Health CT
Judith 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.