

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

██████████ 2017
Signature confirmation

Client: ██████████
Request: 815805

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2017, the Health Insurance Exchange Access Health Connecticut (“AHCT”), Connecticut’s Health Insurance Exchange, issued ██████████ (the “Appellant”) a notice of action denying her HUSKY A/Medicaid for Parents and Caretakers coverage.

On ██████████ 2017, the Appellant filed a request with the Office of Legal Counsel, Regulations and Administrative Hearings (“OLCRAH”).

On ██████████ 2017, the OLCRAH issued a notice to the Appellant, scheduling the administrative hearing for ██████████ 2017. The Appellant requested a postponement of the administrative hearing due to issues with her telephone; the OLCRAH granted the request.

On ██████████ 2017, in accordance with sections 17b-60, 17b-264 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, Title 45 Code of Federal Regulations (“CFR”) §§ 155.505(b) and 155.510 and/or 42 CFR § 457.113, OLCRAH held an administrative hearing by telephone. The following individuals participated in the administrative hearing:

██████████ Appellant
Judy Boucher, AHCT Supervisor
Eva Tar, Hearing Officer

STATEMENT OF ISSUE

The issue to be decided is whether ACHT correctly determined that the Appellant was ineligible to participate in the HUSKY A/Medicaid for Parents and Caretakers program, based on her non-citizen status.

FINDINGS OF FACT

1. The Appellant's date of birth is [REDACTED] 1973. (AHCT's Exhibit 5)
2. The Appellant is a citizen of the Dominican Republic. (AHCT's Exhibit 5)(Appellant's testimony)
3. The Appellant resides in Connecticut. (Appellant's testimony)
4. On [REDACTED] 2015, the Appellant received lawful permanent residency status from the United States Citizenship and Immigration Services ("USCIS"). (AHCT's Exhibit 5)
5. Prior to [REDACTED] 2015, the Appellant used to visit the United States for several months at a time; she did not have the status of lawful permanent resident or another status with USCIS during those visits. (Appellant's testimony)
6. On [REDACTED] 2017, the Appellant filed an application with AHCT for HUSKY A/Medicaid coverage for herself and her minor child. (AHCT's Exhibit 1)
7. On [REDACTED] 2017, AHCT granted the Appellant's minor child medical coverage under the HUSKY A/Medicaid for Children program. (AHCT's Exhibit 2)
8. AHCT's [REDACTED] 2017 notice stated that AHCT had denied the Appellant medical coverage under the HUSKY A/Medicaid for Parents and Caretakers program as she had not been a lawful permanent resident of the United States for five or more years. (AHCT's Exhibit 2)

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. 42 C.F.R. § 435.110 addresses the financial requirements associated with granting Medicaid coverage of parents and other caretaker relatives.
5. 42 C.F.R. § 435.406 (a)(2)(i) provides that 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 an non-citizen in a satisfactory immigration status.
6. Title 8 of the United States Code (“U.S.C.”) § 1641 (b) provides that 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).
7. 8 U.S.C. § 1613 addresses the five-year limited eligibility of qualified aliens for Federal means-tested public benefit. Section (a) notes 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.”
8. 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. 42 C.F.R. § 435.406 (c).

9. **42 C.F.R. § 435.956 Verification of other non-financial information.** (a) *Citizenship and immigration status.* (1)(i) The agency must—(A) Verify citizenship status through the electronic service established in accordance with §435.949 or alternative mechanism authorized in accordance with §435.945(k), if available; and (B) Promptly attempt to resolve any inconsistencies, including typographical or other clerical errors, between information provided by the individual and information from an electronic data source, and resubmit corrected information through such electronic service or alternative mechanism.
10. For the purposes of the exemption from the five-year waiting period described in 8 U.S.C. 1613, the agency must verify that an individual is an honorably discharged veteran or in active military duty status, or the spouse or unmarried dependent child of such person, as described in 8 U.S.C. 1612(b)(2) through the electronic service described in §435.949 or alternative mechanism authorized in accordance with §435.945(k). If the agency is unable to verify such status through such service the agency may accept self-attestation of such status. 42 C.F.R. § 435.956 (a)(3).
11. AHCT has the authority to verify the Appellant's citizenship status for the purpose of determining whether she is subject to a five-year bar to receiving Medicaid coverage.
12. AHCT correctly determined the Appellant is not a citizen of the United States.
13. AHCT correctly determined that as a resident alien who is not otherwise exempt, the Appellant is subject to a five-year bar from participation with respect to the Medicaid program.
14. AHCT correctly determined on [REDACTED] 2017 that the Appellant is ineligible to participate in the Medicaid program, as she had not resided in the United States for a minimum of five years with the status of lawful permanent resident.
15. AHCT correctly denied the Appellant's [REDACTED] 2017 application for HUSKY A/Medicaid for Parents and Caretakers.

DECISION

The Appellant's appeal is DENIED.

Eva Tar-electronic signature
Eva Tar
Hearing Officer

cc: Judith Boucher, AHCT