

**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: 816444

NOTICE OF DECISION

PARTY

[REDACTED]
[REDACTED]
[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED] 2017, the Department of Social Services (the "Department") issued a notice to [REDACTED] (the "Appellant") stating that the agency had discontinued her Medicaid coverage effective [REDACTED] 2017.

On [REDACTED] 2017, the Appellant filed a request for an administrative hearing with the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") to dispute the Department's action.

On [REDACTED] 2017, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") scheduled the Appellant's administrative hearing for [REDACTED] 2017.

On [REDACTED] 2017, in accordance with sections 17b-60, 17b-61, and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, the OLCRAH held an administrative hearing. The following individuals attended the administrative hearing:

[REDACTED] Appellant
[REDACTED] Appellant's witness
Jennifer Ramsey, Department's representative
Eva Tar, Hearing Officer

The administrative hearing record closed [REDACTED] 2017.

STATEMENT OF ISSUE

The issue to be decided is whether the Department correctly discontinued the Appellant's Medicaid coverage.

FINDINGS OF FACT

1. The Appellant's date of birth is [REDACTED] 1949. (Department's Exhibit 5)
2. The Appellant resides in Connecticut with her daughter and her daughter's family. (Appellant's witness's testimony)
3. The Appellant has lived continuously in the United States since 2015. (Appellant's witness's testimony)
4. The Appellant is not a citizen of the United States. (Appellant's witness's testimony)
5. The Appellant's country of origin is Guyana. (Department's Exhibit 5)
6. On [REDACTED] 2016, the United States Citizenship and Immigration Services ("USCIS") granted the Appellant lawful permanent resident-employment authorized status. (Department's Exhibit 5)
7. The Appellant's daughter sponsored the Appellant, signing a *Form I-864, Affidavit of Support* under Section 213A of the Immigration and Naturalization Act. (Department's Exhibit 5)
8. Prior to receiving lawful permanent resident status in 2016, the Appellant was not recognized by the USCIS to be an entrant who was a refugee, asylee, or other recognized status. (Appellant's witness's testimony)
9. From [REDACTED] 2016 through [REDACTED] 2017, the Appellant received Medicaid coverage. (Department's Exhibit 2)
10. On [REDACTED] 2017, the Department issued a notice to the Appellant, discontinuing her Medicaid coverage effective [REDACTED] 2017, for the reason that she was not a citizen or an eligible alien. (Department's Exhibit 6)

CONCLUSIONS OF LAW

1. Section 17b-2 of the Connecticut General Statutes in part designates the Department of Social Services as the state agency for the administration of the Medicaid program pursuant to Title XIX of the Social Security Act.
2. Section 17b-80 (a) of the Connecticut General Statutes provides in part that the commissioner shall make periodic investigations to determine eligibility and may, at

any time, modify, suspend or discontinue an award previously made when such action is necessary to carry out the provisions of the state supplement program, medical assistance program, temporary family assistance program, state-administered general assistance program or supplemental nutrition assistance program.

3. Prior to making an eligibility determination, the Department conducts a thorough investigation of all circumstances relating to eligibility and the amount of benefits. Uniform Policy Manual ("UPM") § 1505.40 (A)(1).
4. The Department had the authority under state statute and regulation to review the Appellant's Medicaid case for the purpose of determining her eligibility for the program.
5. Section 17b-257a (a) of the Connecticut General Statutes provides in part that that qualified aliens admitted into the United States on or after August 22, 1996, shall be eligible for Medicaid subsequent to five years from the date admitted, except if the individual is otherwise qualified for the purposes of state receipt of federal financial participation under Title IV of Public Law 104-193, such individual shall be eligible for Medicaid regardless of the date admitted.
6. An individual must be either a citizen or an eligible non-citizen in order to receive benefits from any program. This chapter describes those individuals who are citizens and eligible non-citizens. UPM § 3005.
7. Eligible Non-citizens -- Arriving in U.S. on or after 8/22/96. An eligible non-citizen is one who arrives in the U.S. on or after August 22, 1996 and:
 1. is admitted to the U.S. as a refugee under section 207 of the Immigration and Nationality Act; or
 2. is granted asylum under section 208 of such act; or
 3. whose deportation is being withheld under section 243(h) of such act (as 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 (as amended by section 305(a) of division C of Public Law 104-208); or
 4. is lawfully residing in the state and is:
 - a. a veteran (as defined in section 101, 1101, or 1301, or as described in section 107 of title 38, United States Code) with a discharge characterized as an honorable discharge and not on account of alienage and who fulfills the minimum active-duty service requirements of section 5303A(d) of title 38 U.S.C.; or
 - b. on active duty (other than active duty for training) in the Armed Forces of the United States; or
 - c. the spouse or unmarried dependent child of an individual described in subparagraph a or b or the unremarried surviving spouse of a deceased individual described in subparagraph a or b if the marriage fulfills the requirements of section 1304 of title 38, U.S.C.; or

5. is granted status as a Cuban and Haitian entrant under section 501 (e) of the Refugee Education Assistance Act of 1980; or
6. is admitted to the U.S. as an Amerasian immigrant pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101 (e) of Public Law 100-202 and amended by the 9th proviso under MIGRATION AND REFUGEE ASSISTANCE in title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989, Public Law 100-461, as amended); or
7. is an American Indian born in Canada to whom the provisions of section 289 of the Immigration and Nationality Act apply; or
8. is a member of an Indian tribe under section 4 (e) of the Indian Self-Determination and Education Assistance Act; or
9. is receiving SSI; or
10. has lawfully resided in the U.S. for at least five years and:
 - a. is lawfully admitted to the U.S. for permanent residence under the Immigration and Nationality Act; or
 - b. is paroled into the U.S. under section 212 (d) of such act for a period of at least one year; or
 - c. is granted conditional entry pursuant to section 203 (a) (7) of such act as in effect prior to April 1, 1980; or
 - d. has been battered or subjected to extreme cruelty in the U.S. by a spouse or parent, or by a member of the spouse or parent's family living with the non-citizen and the spouse or parent allowed such battery or cruelty to occur, but only if:
 - (1) the Department determines that the battery or cruelty has contributed to the need for medical assistance; and
 - (2) the non-citizen has been approved or has an application pending with the INS under which he or she appears to qualify for:
 - (a) status as a spouse or child of a U.S. citizen pursuant to clause (ii), (iii) or (iv) of section 204(a)(1)(A) of the Immigration and Nationality Act; or
 - (b) classification pursuant to clause (ii) or (iii) of section 204(a)(1)(B) of such act; or
 - (c) suspension of deportation and adjustment of status pursuant to section 244(a)(3) of such act; or
 - (d) status as a spouse or child of a U.S. citizen pursuant to clause (i) of section 204(a)(1)(A) of such act, or classification pursuant to clause (i) of section 204(a)(1)(B) of such act; and
 - (3) the individual responsible for such battery or cruelty is not presently residing with the person subjected to such battery or cruelty; or
 - e. is a non-citizen whose child has been battered or subjected to extreme cruelty in the U.S. by a spouse or parent of the non-citizen (without the active participation of the non-citizen in the battery or cruelty), or by a member of the spouse or parent's family living with the non-citizen and the spouse or parent allowed such battery or cruelty to occur, but only if the criteria in subparagraph d (1), (2) and (3) above are met; or

- f. is a non-citizen child living with a parent who has been battered or subjected to extreme cruelty in the U.S. by that parent's spouse or by a member of the spouse's family living with the parent and the spouse allowed such battery or cruelty to occur, but only if the criteria in subparagraph d (1), (2) and (3) above are met; or
 - 11. is lawfully residing in the United States and who was a member of a Hmong or Highland Laotian Tribe at the time that tribe rendered assistance to United States personnel during the Vietnam era. The individual's spouse, surviving spouse and unmarried dependent children are also eligible. UPM § 3005.08 (B).
- 8. The Appellant is a non-citizen who arrived in the United States on or after [REDACTED]/96.
 - 9. The Appellant does not meet the criteria listed at UPM § 3005.08.
 - 10. The Department correctly determined that the Appellant was not an "eligible non-citizen" for the purposes of the Medicaid program.
 - 11. The Department correctly discontinued the Appellant's Medicaid coverage.

DECISION

The Appellant's appeal is DENIED.

Eva Tar-electronic signature
Eva Tar
Hearing Officer

Cc: [REDACTED]
Jennifer Ramsey, DSS-New Britain
Phil Ober, DSS-New Britain
Patricia Ostroski, DSS-New Britain

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.