

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

██████████ 2017
Signature Confirmation

Client ID # ██████████
Application # ██████████
Hearing Request # 817203

NOTICE OF DECISION

PARTY

██████████
██████████
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PROCEDURAL BACKGROUND

On ██████████ 2017, the Health Insurance Exchange Access Health CT (“AHCT”) issued a Notice of Action (“NOA”) to ██████████, (the “Appellant”) granting HUSKY B Band 1 effective ██████████ 2017 for her son.

On ██████████ 2017, the Appellant requested a hearing to contest the eligibility determination of HUSKY B healthcare coverage and discontinuance of HUSKY A Medicaid.

On ██████████ 2017, the Office of Legal Counsel, Regulations, and Administrative Hearings (the “OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2017.

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 hearing:

██████████ Appellant

Stephanie Arroyo, AHCT Representative
Marci Ostroski, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether AHCT correctly discontinued Medicaid/HUSKY A and granted HUSKY B Band 1.

FINDINGS OF FACT

1. The Appellant's son was active on the Medicaid/HUSKY A program under the Transitional Medical Assistance program ("TMA") from [REDACTED] 2016 through [REDACTED] 2017. (AHCT testimony).
2. On [REDACTED] 2017, the Appellant completed a reapplication for medical benefits for her son. The Appellant did not request coverage for herself. (AHCT testimony, Appellant's testimony)
3. On [REDACTED] 2017, the Appellant provided her wage stubs as verification of her gross monthly earnings. (Appellant's testimony)
4. On [REDACTED] 2017, AHCT updated the Appellant's gross monthly earnings to \$3155.15. The Appellant reported a deduction in the amount of \$50 per month for student loan interest and \$22 per month in 401K contributions. The Appellant's net income was adjusted to \$3083.15 ($\$3155.15 - \$72 = \3083.15). (AHCT testimony, Appellant's testimony, Ex. 1: Application 4112277)
5. The Appellant reported to the AHCT that she files taxes as head of household and claims her son [REDACTED] as a tax dependent. The Appellant also self-attested that her daughter [REDACTED] lives with her but that she does not claim [REDACTED] on her taxes as a dependent. (Ex. 1: Application 4112277, Appellant's testimony).
6. AHCT determined the Appellant did not qualify for Medicaid/HUSKY A coverage as a household of two because she did not meet the Medicaid financial criteria. AHCT found the Appellant's son eligible for HUSKY B band 1. (Ex. 2: Eligibility determination, Ex. 4: Notice of Action [REDACTED]/17).
7. The Federal Poverty Limit ("FPL") for a household of two equaled \$1353.00 per month effective [REDACTED] 2017 (Federal Register).

CONCLUSIONS OF LAW

1. Section 17b-260 of the Connecticut General Statutes ("CGS") provides for 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. Section 17b-264 of the CGS provides for the extension of other public assistance provisions. 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
3. Title 45 of the Code of Federal Regulations ("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) of this section that is designated by the Exchange, if the Exchange establishes an appeals process in accordance with the requirements of this subpart.
4. 45 CFR § 155.505(d) provides that an appeals process established under this subpart must comply with § 155.110(a).
5. 45 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.
6. 42 CFR § 435.603 (f) (2)(iii)- pertains to household and provides Basic rule for individuals claimed as a tax dependent. In the case of an individual who expects to be claimed as a tax dependent by another taxpayer for the taxable year in which an initial determination or renewal of eligibility is being made, the household is the household of the taxpayer claiming such individual as a tax dependent, except that the household must be determined in accordance with paragraph (f)(3) of this section in the case of Individuals under the age specified by the State under paragraph (f)(3)(iv) of this section who expect to be claimed as a tax dependent by a non-custodial parent.

42 CFR § 435.603 (f)(3)(iii)(iv) pertains to the rules for individuals who neither file a tax return nor are claimed as a tax dependent. In the case of individuals who do not expect to file a Federal tax return and do not expect to be claimed as a tax dependent for the taxable year in which an initial determination or renewal of eligibility is being made. Or who are described in paragraph (f)(2)(i), (f)(2)(ii) , or (f)(2)(iii) of this section, the household consists of the individual and, if living with the individual –in the case of individuals under the age specified (f)(3)(iv) of this section, the individual’s natural , adopted and step parents and natural, adoptive and step siblings under the age specified in (f)(3)(iv) of this section. (iv) The age specified in this paragraph is either of the following, as elected by the agency in the State plan—

(A) Age 19; or

(B) Age 19 or, in the case of full-time students, age 21

7. The Appellant self-attested that she files as Head of Household and claims one tax dependent, her son [REDACTED]. She has a MAGI household of two persons.
8. [REDACTED] is a tax dependent of the Appellant. His MAGI household consists of himself and his mother, the Appellant. He has a MAGI household of two persons.
9. Title 42 CFR § 435.118(b)(2)(ii) provides that the agency must provide Medicaid to children under age 19 whose income is at or below the income standard established by the agency in its State Plan
10. 42 CFR § 435.603(e) provides that 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 expensed are excluded from income.
 - (3) American Indian/Alaska Native exceptions. The following are excluded from income:
 - (i) Distributions from Alaska Native Corporations and Settlement Trusts;
 - (ii) Distributions from any property held in trust, subject to Federal restrictions, located within the most recent boundaries of a prior Federal reservation, or otherwise under the supervision of the Secretary of the Interior;
 - (iii) Distributions and payments from rents, leases, rights of way, royalties, usage rights, or natural resource extraction and harvest from –

- (A) Rights of ownership or possession in any lands described in paragraph (e)(3)(ii) of this section; or
- (B) Federally protected rights regarding off-reservation hunting, fishing, gathering, or usage of natural resources;
- (iv) Distributions resulting from real property ownership interests related to natural resources and improvements –
 - (A) Located on or near a reservation or within the most recent boundaries of a prior Federal reservation; or
 - (B) Resulting from the exercise of federally-protected rights relating to such real property ownership interests;
- (v) Payments resulting from ownership interests in or usage rights to items that have unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or a traditional lifestyle according to applicable Tribal Law or custom;
- (vi) Student financial assistance provided under the Bureau of Indian Affairs education programs.

11. Title 26 of the Internal Revenue Code (“IRC”) section 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.

12. The Appellant’s monthly MAGI totaled \$3083.15 in March 2017.

13.42 CFR §435.603(d)(1)(4) provides for the application of the household’s modified adjusted gross income (“MAGI”). The household’s 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. Effective January 1, 2014, 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.

14. Five percent of the FPL for a family of two equaled \$67.65 ($\$1353.00 \times .05$) per month in ██████ 2017.

15. The Appellant’s applicable MAGI totaled \$3,015.50 ($\$3083.15 - \67.65) in ██████ 2017.

16. Public Act 15-5 June Sp. Session, Section 370 (a) provides in part Except as provided in section 17b-277, as amended by this act, and section 17b-292, as amended by public act 15-69 and this act, the medical assistance program shall provide coverage to persons under the age of nineteen with household income up to one hundred ninety-six per cent of the federal poverty level without an asset limit and to persons under the age of nineteen, who qualify for coverage under Section 1931 of the Social Security Act, with household income not exceeding one hundred ninety-six per cent of the federal poverty level without an asset limit, and their parents and needy caretaker relatives, who qualify for coverage under Section 1931 of the Social Security Act, with household income not exceeding one hundred fifty per cent of the federal poverty level without an asset limit.
17. One hundred ninety-six percent of the FPL for a household of two for a child under the age of nineteen totaled \$2651.88 ($\1353.00×1.96) rounded to \$2652.00 per month in March 2017.
18. AHCT correctly determined the Appellant's applicable MAGI (\$3,015.50) exceeded the Medicaid/HUSKY A income limit (\$2652.00) for children under the age of 19.
19. AHCT correctly discontinued the Appellant's son's Medicaid/HUSKY A healthcare coverage for exceeding the income limit.

DISCUSSION

Under the Affordable Care Act, a household does not necessarily consist of the people with whom you live with and are related to. In the Medicaid program, household size may be different within the same household. In this case, the household is determined by the tax relationship among individuals and it begins with the tax filer and her claimed dependents. AHCT was correct in its determination of the Appellant's household size at the time of the application. Although both her children reside in her home, because she reported that she does not claim both of them on her taxes, she could not claim both as part of her household size when seeking Medicaid eligibility.

After the hearing the Appellant provided her tax returns which show that she is in fact claiming her daughter [REDACTED] as a tax dependent. As this was not reported in her original application the Department was correct to determine her eligibility as a household of two. The Appellant has the right to reapply for the HUSKY A program as a household of three if she continues to claim both children as tax dependents.

HUSKY A Medicaid eligibility is based on Modified Adjusted Gross Income. The Appellant provided credible testimony that her son has complex medical issues related to his Autism diagnosis and was in need of continuous care which was not completely

covered under the HUSKY B program The HUSKY A Medicaid expansion under the Affordable Care Act does not recognize medical need in determining income eligibility. Regardless of his child's medical condition the family is over income for this program.

DECISION

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

Marci Ostroski

Marci Ostroski
Hearing Officer

Pc: Stephanie Arroyo, Judy Boucher, Health Insurance Exchange Access Health CT

**Modified Adjusted Gross Income (MAGI) Medicaid and
Children's Health Insurance Program (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 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 06105-3725.

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, 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 extensions 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.