

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

REQUEST #820377

CLIENT ID # ██████████

NOTICE OF DECISION

PARTY

██████████
██████████
████████████████████

PROCEDURAL BACKGROUND

On ██████████ 2016, the Department of Social Services (the "Department"), issued a Notice of Approval to ██████████ (the "Appellant"). The Notice stated that the Appellant was eligible for retroactive medical assistance under the Husky D-Medicaid for Low Income Adults ("MLIA") program for the month of ██████████ 2016.

On ██████████ 2017, the Department reviewed the Appellant's income for ██████████ 2016, and determined that the Appellant was ineligible for retroactive medical assistance under the Husky D-MLIA program for the month of ██████████ 2016, due to excess income, but did not send a Notice of Action to the Appellant.

On ██████████ 2017, the Appellant requested an administrative hearing to contest the Department's denial of her request for retroactive medical assistance under the Husky D-MLIA program for the month of ██████████ 2016.

On ██████████ 2017, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a Notice scheduling a hearing for ██████████ 2017 @ 10:00 AM to address the Department's denial of the Appellant's request for retroactive medical assistance under the Husky D-MLIA program.

OLCRAH granted the Appellant a continuance

On ██████████ 2017, in accordance with sections 17b-60, 17b-264 and 4-176e to -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, inclusive, OLCRAH held

an administrative hearing to address the Department's denial of the Appellant's request for retroactive medical assistance under the Husky D-MLIA program.

The following individuals were present at the hearing:

██████████ Appellant
Javier Rivera, Representative for the Department
Hernold C. Linton, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Appellant is ineligible for retroactive medical assistance under the Husky D-MLIA program for the month of ██████████ 2016, due to excess income.

FINDINGS OF FACT

1. On ██████████ 2016, the Department received the Appellant's application for medical assistance under the Husky D-MLIA program. (Appellant's testimony; Dept.'s Exhibit #3: STAT Screens)
2. On ██████████ 2016, the Department granted the Appellant retroactive medical assistance for the month of ██████████ 2016, denied retroactive medical assistance for the month of ██████████ 2016 due to excess income, and granted on-going medical assistance, effective ██████████ 2016. (Hearing Summary; Dept.'s Exhibit #2: ██████████/16 Notice of Action; Dept.'s Exhibit #3)
3. On ██████████ 2017, the Appellant contacted the Department regarding the denial of retroactive medical assistance for the month of ██████████ 2016, and was advised to send in verification of her income for the month of ██████████ 2016 for a review of her eligibility for retroactive medical assistance for the month of ██████████ 2016. (Dept.'s Exhibit #1: Case Narrative)
4. On ██████████ 2017, the Appellant provided the Department with verification of her income for the month of ██████████ 2016 to determine her eligibility for retroactive medical assistance in ██████████ 2016. (Dept.'s Exhibit #1)
5. On ██████████ 2017, the Department conducted a review of the Appellant's income for the month of ██████████ 2016, and determined that the Appellant's income for the month of ██████████ 2016 exceeded the income limit for the Husky D-MLIA program. (Hearing Summary; Dept.'s Exhibit #1)
6. The Department did not send a Notice of Action to the Appellant on ██████████ 2017, to inform her of the denial of her request for retroactive medical assistance under the Husky D program for the month of ██████████ 2016, due to excess income. (Hearing Record)

7. The Appellant's household consists of 1 member. (Appellant's testimony)
8. The Appellant's gross income for the month of ██████████ 2016 was \$2,483.12. (Hearing Summary; Dept.'s Exhibit #1; Dept.'s Exhibit #4: Pay Stubs)
9. Effective ██████████ 2016, the income limit for the Husky D program is \$1,316.70 per month or 133% of the Federal Poverty Level ("FPL") for a household consisting of 1 member. (Dept.'s Exhibit #5: ██████████/17 Notice of Application Results)
10. The Appellant's gross income for the month of ██████████ 2016 exceeded the income limit for the Husky D program. (Hearing Summary)

CONCLUSIONS OF LAW

1. Section 17b-260 of the Connecticut General Statute 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. State 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]
3. 45 CFR § 155.505(d) provides that an appeals process established under this subpart must comply with § 155.110(a).
4. State 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)]
5. The Department correctly determined Husky D/Medicaid as the appropriate medical coverage group for the Appellant.

6. 42 CFR § 435.119 provides for coverage for individual age 19 or older and under age 65 at or below 133 percent of the Federal Poverty Level (“FPL”). It provides in part:
 - 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.
7. 42 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.
8. 42 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.
9. The Department correctly determined that the Appellant is a household consisting of one member.
10. Effective ██████████ 2016, the FPL for a household consisting of one member is \$990.00 per month. ($\$11,880.00$ per year / 12 months = \$990.00 per month)
11. The Medicaid income limit for a household consisting of one member is \$1,316.70 for individuals age 19 or older and under age 65 ($\$990.00 \times 133\% = \$1,316.70$ per month).
12. 42 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 identified in paragraph (j) of this section and as provided in paragraph (a)(3) of this section.

13. 42 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.
14. 42 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.
15. 42 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.
16. Five percent (5%) of the FPL for a household of one equals \$49.50. ($\$990.00 \times 5\% = \49.50)
17. 42 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:
 - a. An amount received as a lump sum is counted as income only in the month received.
 - b. Scholarships, awards, or fellowship grants used for education purposes and not for living expenses are excluded from income.
 - c. Provides for American Indian/Alaska Native exceptions.
18. United States Code (“U.S.C.”) § 36B(d)(2)(B) provides that the term “modified adjusted gross income” means adjusted gross income increased by-
 - d. Any amount excluded from gross income under section 911,
 - e. Any amount of interest received or accrued by the taxpayer during the taxable year which is exempt from tax, and
 - f. 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.
19. Uniform Policy Manual (“UPM”) 1560.10 provides that the beginning date of assistance for Medicaid may be one of the following:

- A. the first day of the first, second or third month immediately preceding the month in which the Department receives a signed application when all non-procedural eligibility requirements are met and covered medical services are received at any time during that particular month; or
20. The Department correctly determined the month of [REDACTED] 2016 as a retro month, based on the Appellant's application date of [REDACTED] 2016.
21. The Department correctly calculated the Appellant's total gross earned income for the month of [REDACTED] 2016 as \$2,483.12, based on the pay stubs provided.
22. The Appellant's MAGI equals \$2,433.62 per month (\$2,483.12, monthly income; minus \$49.50, 5% of the FPL for 1).
23. The Appellant's monthly countable MAGI for the month of [REDACTED] 2016 of \$2,433.62 exceeded the income limit for the Medicaid/Husky D program for a household consisting of one member of \$1,316.70.
24. The Department correctly determined that the Appellant's MAGI of \$2,433.62 exceeds the income limit for the Medicaid/Husky D program.
25. The Department correctly determined that the Appellant is ineligible for retroactive medical assistance under the Husky D program for the month of [REDACTED] 2016, due to excess income.
26. The Department correctly denied the Appellant's request for retroactive medical assistance under the Husky D program for the month of [REDACTED] 2016, due to excess income.

DECISION

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



Hernold C. Linton
Hearing Officer

Pc: **Elizabeth Thomas**, Social Service Operations Manager
DSS, R.O. # 11, Manchester

Fair Hearing Liaisons, DSS, R.O. # 11, Manchester

**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.

There is no right to request reconsideration for denials or reductions of APTC or 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, 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.