

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

██████████ 2016  
Signature Confirmation

CLIENT No # ██████████  
Request # 827403

NOTICE OF DECISION

PARTY

██████████  
██████████  
██████████

PROCEDURAL BACKGROUND

On ██████████ 2017 the Health Insurance Exchange Access Health CT- (“AHCT”) sent ██████████ (the “Appellant”) a Notice of Action (“NOA”) denying the Appellant’s Medicaid Husky D healthcare coverage.

On ██████████ 2017, the Appellant requested an administrative hearing to contest the decision to deny Medicaid/ Husky D benefits.

On ██████████ 2017, the Office of Legal Counsel, Regulations, and Administrative Hearings (“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 were present at the hearing:

██████████ Representative for Appellant ██████████  
Sabrina Solis, AHCT Representative  
Almelinda McLeod, Hearing Officer

## **STATEMENT OF THE ISSUE**

The issue to be decided is whether ACHT correctly denied the Medicaid Husky D benefits based on the non-citizen status of two family members.

## **FINDINGS OF FACT**

1. On [REDACTED] 2017, the Appellant submitted a telephone application requesting medical insurance for himself and four of his children; [REDACTED] [REDACTED] [REDACTED] and [REDACTED] (Exhibit #1- Access Health CT application # [REDACTED] )
2. The Appellant's tax filing status is Head of Household. (Exhibit 1, AHCT application)
3. The Appellant is a naturalized citizen. [REDACTED] and his other 3 children are all permanent residents. (Exhibit #1, AHCT application and Appellant testimony)
4. On [REDACTED] 2013, [REDACTED] received lawful permanent resident-employment authorized status from the United States Immigration Services. ( Exhibit 5, SAVE document)
5. [REDACTED] date of birth is [REDACTED]/1996. She is 21 years old. ( Exhibit 5, SAVE document and Exhibit 1, AHCT application)
6. Prior to this application, the Department of Social Services, the ("Department") granted the Appellant and his minor children medical coverage under HUSKY A/ Medicaid for Children program. (Appellant testimony)
7. On [REDACTED] 2017, AHCT notified the Appellant that [REDACTED] was not eligible for HUSKY D Medicaid because she has not been lawfully permanent resident of the United States for 5 or more years. (Exhibit 4, Application results notice)

## **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 Code of Federal Regulations (“CFR”) 155.110 (A) (2) provides the State may elect to authorize an Exchange established by the State to enter into an agreement with an eligible entity to carry out or more responsibilities of the Exchange. An eligible entity is: the State Medicaid agency, or any other State agency that meets the qualifications of paragraph (a) (1) of this section.
  4. 45 CFR 155.505 (c) (1) provides Options for Exchange appeals. 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; or
  5. 45 CFR 155.505 (d) Eligible entities. An appeals process established under this subpart must comply with § 155.110 (a).
  6. 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.

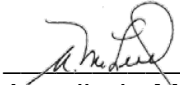
7. Title 8 of the United States Code (“U.S.C.”) § 1641 (b) provides that for the purposes of this chapter, the term “qualified alien” means an alien who, at the time the alien applies for, receives, or attempts to receive a Federal public benefit, is- 1. An alien who is lawfully admitted for permanent 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).
8. 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.”
9. 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).
10. 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.
11. 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).

12. 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.
13. AHCT correctly determined the Appellant is not a citizen of the United States.
14. AHCT correctly determined that the Appellant, [REDACTED] who is not otherwise exempt, is subject to a five year bar from participation with respect to the Medicaid program.
15. AHCT correctly determined on [REDACTED] [REDACTED] 2017 that the Appellant, [REDACTED] 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.
16. AHCT correctly denied the Appellant, [REDACTED] HUSKY D Medicaid.

### **DECISION**

The Appellant's appeal is DENIED.

  
\_\_\_\_\_  
Almelinda McLeod  
Hearing Officer

CC: Amanda Maloney , Health Insurance Exchange, Access Health CT  
Sabrina Solis, Health Insurance Exchange, Access health CT

### **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.