

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

██████████ 2018
Signature Confirmation

Application No # ██████████
Request # 832533

NOTICE OF DECISION

PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2017 the Health Insurance Exchange Access Health CT- ("AHCT") sent ██████████ ██████████ (the "Appellant") a Notice of Action ("NOA") discontinuing the Appellant's Medicaid Husky A- Pregnancy healthcare coverage.

On ██████████ 2017, the Appellant requested an administrative hearing to contest the decision to deny Medicaid/ Husky A- Pregnancy healthcare coverage 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:

██████████ Appellant
Krystal Sherman-Davis, AHCT Representative
Almelinda McLeod, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether ACHT correctly denied the Medicaid Husky A- Pregnancy healthcare coverage benefits.

FINDINGS OF FACT

1. On [REDACTED] 2017, the Appellant submitted an application requesting pregnancy related medical insurance coverage for herself. (Exhibit #1- Access Health application # [REDACTED])
2. The Appellant's tax filing status is married filing separately. (Appellants testimony)
3. The Appellant resides in with her spouse and their child in [REDACTED], CT. which is in [REDACTED] County. (Exhibit #1, AHCT application and Appellant testimony)
4. The Appellant did not apply for her spouse or her child. The Appellant is a household of 4. (Exhibit #1, AHCT application)
5. The Appellant was found eligible for the Husky A –Pregnancy Medicaid effective [REDACTED] 2017. (Hearing summary and AHCT testimony)
6. On [REDACTED] 2017, the Appellant submitted a change reporting application by submitting verification of employment income. (Hearing summary)
7. The Appellant submitted 4 consecutive paystubs and the IRS 1040 taxes for 2016.

[REDACTED]/17	\$1632.01
[REDACTED]/17	\$1429.39
[REDACTED]/17	\$1028.99
[REDACTED]/17	\$1044.17
Sum\$5134.56 / 4 x 4.3=	\$5519.65
IRS Line 37on 1040-2016	\$72.630

(Exhibit 4, paystubs and 1040/2016)

8. The Appellant is a stay at home mom and does not work. The Appellant's spouse is the only employed person in the household. (Appellant's testimony)

9. The Appellant's spouse earns \$22.00 per hour regularly and \$33.00 per hour in overtime. On average he works between 40 and 45 hours per week. On Rare occasions he works up to 60 hours per week, but this is not the norm. (Appellant's testimony)
10. The Appellant reported a yearly modified adjusted gross income ("MAGI") totaled \$65,000.00. (Exhibit #1, AHCT application)
11. The 263% of the Federal Poverty Limit ("FPL") for a household of four is \$5391.50. for the Husky A-Pregnancy Medicaid healthcare coverage. (Hearing summary)
12. On ██████████ 2017, AHCT determined the Appellant and her unborn child no longer qualified for the Husky A –Pregnancy Medicaid due to a change in the household income. (Hearing record)

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 CFR 435.603 (b) Definitions. Family size means the number of persons counted as members of an individual's household. In this 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 individuals 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 she is expected to deliver.
7. 42 CFR § 435.603 (f) (4) provides for Married couples. In the case of a married couple living together, each spouse will be included in the household of the other spouse, regardless of whether they expect to file a joint tax return under section 6013 of the Code or whether one spouse expects to be claimed as a tax dependent by the other spouse.
8. 42 CFR § 435.603 (f) (2) provides in part the 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.
9. **AHCT correctly determined that the Appellant's household consisted of the Appellant's spouse, their common child, the Appellant and her unborn child, a household of 4.**
10. 42 CFR § 435.110 (b) (c) (2) (i) provides that the agency must provide Medicaid to parents and caretaker relatives whose income is at or below the income standard established by the agency in the State Plan.
11. 42 CFR § 435.603 (d) (1) provides for the construction of the modified adjusted gross income ("MAGI") household. Household income – (1) General Rule. 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 in the individual's household.

12.42 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.

13. 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.

14.42 CFR 435.170 (a) and (b) provides this section implements sections 1902 € (5) and 1902 € (6) of the Act. Extended eligibility for pregnant women. For a pregnant woman who was eligible and enrolled under subpart B, C, or D of this part of the date her pregnancy ends, the agency must provide coverage described in paragraph (d) of this section through the last day of the month in which the 60 –day post- partum period ends.

15.42 CFR § 435.170 (c) provides for continuous eligibility for pregnant women. For a pregnant woman who was eligible and enrolled under subpart B, C or D of this part and who, because of a change in household income, will not otherwise remain eligible, the agency must provide coverage described in paragraph (d) of this section through the last day of the month in which the 60 – day post – partum period ends.

16. The Appellant’s monthly MAGI totaled \$ 5519.65 in ██████████ 2017.

17. Although, AHCT correctly determined that the Appellant’s MAGI exceeded the Husky A- Pregnancy Medicaid limits of \$ 5391.50 for a family of four, their determination to discontinue cannot be upheld.


18. AHCT incorrectly discontinued the Appellant’s Husky A-Pregnancy Medicaid effective ██████████ 2017, due to a change in income.

DECISION

The Appellant's appeal is GRANTED.

ORDER

1. AHCT will reopen the Appellant's Husky A-Pregnancy Medicaid effective [REDACTED] 2017 and continue coverage through the last day of the month of her 60 day post-partum period.
2. Compliance with this order is due to the undersigned by [REDACTED] 2017.



Almelinda McLeod
Hearing Officer

CC: Amanda Maloney, Health Insurance Exchange, Access Health CT
Krystal Sherman –Davis, 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.