

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 ID ██████████  
Hearing Request # 120198

NOTICE OF DECISION

PARTY

██████████  
██████████

PROCEDURAL BACKGROUND

On ██████████, 2018, the Health Insurance Exchange Access Health CT (“AHCT”) issued a Notice of Action to ██████████, (the “Appellant”) notifying that she no longer qualifies for the Advanced Premium Tax Credits (“APTC”) due to failure to provide 90 day verification.

On ██████████ 2018, the Appellant requested an administrative hearing to contest the discontinuance of the APTC tax credit.

On ██████████ 2018, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a Notice scheduling the administrative hearing for ██████████, 2018.

On ██████████, 2018, in accordance with sections 17b-60, 17-61 and 4-176e to 4-189 inclusive, of the Connecticut General Statutes, Title 45 of the Code of Federal Regulations (“CFR”) § 155.505(b) and §155.510 and/or 42 CFR § 457.1130, OLCRAH held an administrative hearing.

The following individuals participated in the hearing:

██████████, Appellant  
Debra Henry, Access Health CT Representative  
Miklos Mencseli, Hearing Officer

## **STATEMENT OF THE ISSUE**

The issue to be decided is whether Access Health CT (“AHCT”) correctly discontinued the Appellant’s Advanced Premium Tax Credit (“APTC”) due to failure to provide 90 day verification.

## **FINDINGS OF FACT**

1. The Appellant is [REDACTED] years of age (DOB [REDACTED]), filed her taxes as a single household and is a U.S. Citizen. This a household size of one. (Summary, Exhibit 2: Application document)
2. On [REDACTED], 2017, the Appellant applied for a Qualified Health Plan (“QHP”), application # [REDACTED] with AHCT requesting medical insurance for herself. (Hearing Record)
3. The Appellant chose to receive notifications from AHCT via email. The Appellant has been paperless since 2016. (Hearing Record)
4. On [REDACTED], 2017, AHCT sent the Appellant an Additional Verification Required notice requesting proof of her annual income and proof of her eligibility for financial assistance for the APTC. The verification was due [REDACTED], 2018, or her tax credits may be terminated at the end of the month in which the 90-day notice was received. (Exhibit 5: Additional Verification Required Notice dated [REDACTED]-17)
5. On [REDACTED] 2017, AHCT sent the Appellant a Reminder notice requesting proof of her annual income and proof of her eligibility of financial assistance for the APTC. The information was due [REDACTED], 2018, or her tax credits would be terminated at the end of the month in which the 90-day notice was received. (Exhibit 6: Reminder Notice dated [REDACTED]-17)
6. On [REDACTED], 2018, AHCT sent the Appellant a Reminder notice requesting proof of her annual income and proof of her eligibility of financial assistance for the APTC. The verification was due [REDACTED] 2018, or her tax credits may be terminated at the end of the month in which the 90-day notice was received. (Exhibit 7: Reminder Additional Documents Needed notice dated [REDACTED]-18)
7. On [REDACTED] 2018, AHCT sent the Appellant a Reminder notice requesting proof of her annual income and proof of her eligibility of financial assistance for the APTC. The information was due [REDACTED] 2018 or her tax credits may be terminated at the end of the month in which the 90-day notice was received. (Exhibit 7A: Reminder Additional Documents Needed notice dated [REDACTED]-18)

8. On [REDACTED] 2018, the Appellant filed a change reporting application # [REDACTED] online. The Appellant reported total income for 2017 as \$ [REDACTED] monthly income of \$ [REDACTED]. (Exhibit 2: application # [REDACTED]).
9. On [REDACTED] 2018, AHCT sent the Appellant a Notice stating that she no longer qualified for advance tax credits for 2018 because she did not verify her annual household income. She remained eligible for her health insurance plan with a monthly insurance premium of \$ [REDACTED] Exhibit 8: Notice of Action 90 day final determination notice dated [REDACTED] 18, Summary)
10. The Appellant did not provide the requested verification by the [REDACTED] 2018 due date. (Hearing Record)
11. On [REDACTED], 2018, AHCT received verification of the Appellant's annual income. (Summary, Hearing Record)
12. The Appellant is self-employed as a kitchen designer. (Hearing Record)
13. This is Appellant's only source of income. She is paid based on commission. (Hearing Record)
14. The Appellant was eligible and received APTC in 2017. (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. 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 § 155.110(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.

4. 45 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) or this section that is designated by the Exchange, if the Exchange establishes an appeals process in accordance with the requirements of this subpart.
5. 45 CFR § 155.505(d) provides that an appeals process established under this subpart must comply with § 155.110(a).
6. 45 CFR § 155.335 (a)(1) provides in part that the Exchange must redetermine the eligibility of a qualified individual on an annual basis.
7. 45 CFR 155.320(a)(1,2) provides that the Exchange must verify information in accordance with this section only for an applicant or tax filer who requested an eligibility determination for insurance affordability programs in accordance with § 155.310(b). Unless a request for modification is granted in accordance with § 155.315(h), the Exchange must verify or obtain information in accordance with this section before making an eligibility determination for insurance affordability programs, and must use such information in such determination.
8. 45 CFR § 155.320(c)(i)(A,B) provides for data verification of household income and family size. For all individuals whose income is counted in calculating a tax filer's household income, as defined in 26 CFR 1.36B-1(e), or an applicant's household income, calculated in accordance with 42 CFR 435.603(d), and for whom the Exchange has a Social Security number, the Exchange must request tax return data regarding MAGI and family size from the Secretary of the Treasury and data regarding Social security benefits described in 26 CFR 1.36B-1(e)(2)(iii) from the Commissioner of Social Security by transmitting identifying information specified by HHS to HHS. If the identifying information for one or more individuals does not match a tax record on file with the Secretary of the Treasury that may be disclosed in accordance with section 6103(l)(21) of the Code and its accompanying regulations, the Exchange must proceed in accordance with § 155.315(f)(1).
9. 45 CFR § 155.320(c)(3)(ii) provides that for the basic verification process for annual household income
  - (A) The Exchange must compute annual household income for the family described in paragraph (c)(3)(i)(A) of this section based on the data described in paragraph (c)(1)(i) of this section;

- (B) The Exchange must require the applicant to attest regarding a tax filer's projected annual household income;
  - (C) To the extent that the applicant's attestation indicates that the information described in paragraph (c)(3)(ii)(A) of this section represents an accurate projection of the tax filer's household income for the benefit year for which coverage is requested, the Exchange must determine the tax filer's eligibility for advance payments of the premium tax credit and cost-sharing reductions based on the household income data in paragraph (c)(3)(ii)(A) of this section.
  - (D) To the extent that the data described in paragraph (c)(1)(i) of this section is unavailable, or an applicant attests that a change in circumstances has occurred or is reasonably expected to occur, and so it does not represent an accurate projection of the tax filer's household income for the benefit year for which coverage is requested, the Exchange must require the applicant to attest to the tax filer's projected household income for the benefit year for which coverage is requested.
10. 45 CFR § 155.310 (K) (1)(2)(3) pertains to an incomplete application. If an application filer submits an application that does not include sufficient information for the Exchange to conduct an eligibility determination for enrollment in a QHP through the Exchange or for insurance affordability programs, if applicable, the Exchange must –
- (1) Provide notice to the applicant indicating that information necessary to complete an eligibility determination is missing, specifying the missing information, and providing instructions on how to provide the missing information; and
  - (2) provide the applicant with a period of no less than 10 days and no and no more than 90 days from the date on which the notice described in paragraph (k)(1) of this section is sent to the applicant to provide the information needed to complete the application to the Exchange. And
  - (3) During the period described in paragraph (k)(2) of this section, the Exchange must not proceed with an applicant's eligibility determination or provide advance payments of the premium tax credit or cost sharing reductions, unless an application filer has provided sufficient information to determine his or her eligibility for enrollment in a QHP through the Exchange, in which case the Exchange must make such a determination for enrollment in a QHP.
11. 45 CFR § 155.315(f)(1)(2) provides for the verification process related to eligibility for enrollment in a QHP through the Exchange, except as otherwise specified in this subpart, for an applicant for whom the Exchange cannot verify information required to determine eligibility for enrollment in a QHP through the Exchange, advance payments of the premium tax credit, and cost-sharing reductions, including when electronic data is required in accordance with this subpart but data for individuals relevant to the eligibility determination are not included in such data sources or when electronic data from IRS, DHS, or SSA is required but it is not reasonably expected that data sources will be available within 1 day of the initial request to the data source, the Exchange:

- (1) Must make a reasonable effort to identify and address the causes of such inconsistency, including through typographical or other clerical errors, by contacting the application filer to confirm the accuracy of the information submitted by the application filer;
- (2) If unable to resolve the inconsistency through the process described in paragraph (f)(1) of this section, must—
  - (i) Provide notice to the applicant regarding the inconsistency; and
  - (ii) Provide the applicant with a period of 90 days from the date on which the notice described in paragraph (f)(2)(i) of this section is sent to the applicant to either present satisfactory documentary evidence via the channels available for the submission of an application, as described in §155.405(c), except for by telephone through a call center, or otherwise resolve the inconsistency.
- (3) May extend the period described in paragraph (f)(2)(ii) of this section for an applicant if the applicant demonstrates that a good faith effort has been made to obtain the required documentation.

12. AHCT correctly sent the Appellant notices requesting verification of her annual income.

13. AHCT correctly informed the Appellant of what she needed to do to verify her income and establish eligibility for the advanced premium tax credits.

14. AHCT correctly determined the Appellant did not qualify for advanced premium tax credits, as she failed to submit proof of her household's annual income to AHCT within 90 days of its initial request.

### **DISCUSSION**

AHCT was correct to discontinue the Appellant's Advanced Premium Tax Credit for failing to provide her annual household income and proof of her eligibility of financial assistance for APTC. AHCT notified the Appellant what was needed to process and confirm her determination of eligibility by sending four (4) separate requests for verification. The Appellant chose to receive the notifications via email.

### **DECISION**

The Appellant's appeal is DENIED.



Miklos J. Mencseli  
Fair Hearings Officer

C: Becky Brown, Mike Towers, Health Insurance Exchange Access CT

**Advanced Premium Tax Credits (APTC) or Cost Sharing Reduction (CSR)**

**Right to Appeal**

For APTC or CSR eligibility determinations, the Appellant has the right to appeal to the United States Department of Health and Human Services (HHS) within 30 days of the date of this decision. To obtain an Appeal Request Form, go to <https://www.healthcare.gov/can-i-appeal-a-marketplace-decision/> or call 1-800-318-2596 (TTY: 1-855-889-4325). HHS will let the Appellant know what it decides within 90 days of the appeal request. There is no right to judicial review of the decision by HHS.

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