

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

██████████ 2018
Signature confirmation

Case: ██████████
Client: ██████████
Request: ██████████

NOTICE OF DECISION

PARTY

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

PROCEDURAL BACKGROUND

On ██████████ 2018, the Access Health CT (“AHCT”), Connecticut’s Health Insurance Exchange, issued ██████████ (the “Appellant”) a notice discontinuing her HUSKY A-Parents & Caretakers coverage effective ██████████ 2018, for the reason that her household income exceeded the program limits.

On ██████████ 2018, the Appellant filed a request with the Office of Legal Counsel, Regulations and Administrative Hearings (“OLCRAH”) for an administrative hearing.

On ██████████, 2018, the OLCRAH issued a notice to the Appellant, scheduling the administrative hearing for ██████████, 2018.

On ██████████ 2018, in accordance with sections 17b-60, 17b-264 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, Title 45 of the Code of Federal Regulations (“C.F.R.”) §§ 155.505 (b) and 155.510 and/or 42 C.F.R. § 457.113, the OLCRAH held an administrative hearing. The following individuals participated by telephone conferencing:

████████████████████, Appellant
Krystal Sherman-Davis, AHCT’s representative
Eva Tar, Hearing Officer

The administrative hearing record closed ██████████ 2018

STATEMENT OF ISSUE

The issue to be decided is whether AHCT correctly determined that the Appellant's household monthly income rendered her ineligible for HUSKY A-Parents & Caretakers coverage.

FINDINGS OF FACT

1. The Appellant's date of birth is [REDACTED]. (Appellant's testimony)(AHCT's Exhibit 1)
2. The Appellant's son's date of birth is [REDACTED] [REDACTED] [REDACTED]. (Appellant's testimony)(AHCT's Exhibit 1)
3. The Appellant and her son live by themselves. (Appellant's testimony)
4. The Appellant's household income consists of her wages; her household does not income from another source. (Appellant's testimony)
5. As part of her divorce decree, the Appellant is able to include her son on her income taxes every other year. (Appellant's testimony)
6. The Appellant works 40 hours or more each week for [REDACTED]. (Appellant's testimony)(AHCT's Exhibit 4)
7. In [REDACTED] 2018, the Appellant grossed \$3,236.22 in wages. (AHCT's Exhibit 4)
8. In [REDACTED] 2018, the Appellant's federal taxable wages equaled \$3,002.20 after the allowable pre-tax deductions of her vision coverage and 401K contributions. (AHCT's Exhibit 4)
9. On [REDACTED] 2018, AHCT issued a notice to the Appellant, stating that her HUSKY A-Parents & Caretakers coverage would end effective [REDACTED], 2018, as her household income exceeded \$1,893.00, the income limit for two. (AHCT's Exhibit 2)
10. In 2018, one hundred percent of the Federal Poverty Level for a household of two living in Connecticut equaled \$16,460.00 per year,¹ or \$1,371.66 per month.

CONCLUSIONS OF LAW

1. 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

¹ Federal Register notice of the 2018 poverty guidelines, published January 13, 2018.

concerning recovery from beneficiaries or their estates, charges and recoveries against legally liable relatives, and liens against property of beneficiaries. Conn. Gen. Stat. § 17b-260.

2. As provided in the 2018 Supplement to the General Statutes of Connecticut (revised to January 1, 2018), section 17b-261 (a) of the Connecticut General Statutes is amended in part, “except as provided in section 17b-277 and section 17b-292, 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 thirty-three per cent of the federal poverty level* without an asset limit.”²
3. The agency must provide Medicaid to parents and other caretaker relatives, as defined in 42 C.F.R. § 435.4, and, if living with such parent or other caretaker relative, his or her spouse, whose household income is at or below the income standard established by the agency in the State plan, in accordance with paragraph (c) of this section. 42 C.F.R. § 435.110 (b).
4. 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 [Federal Poverty Level] for the applicable family size. 42 C.F.R. § 435.119 (b).
5. 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. 45 C.F.R. § 155.110 (a).

² Emphasis added.

6. *Eligibility Groups for which MAGI-based methods do not apply.* The financial methodologies described in this section are not applied in determining the Medicaid eligibility of individuals described in this paragraph. The agency must use the financial methods described in §435.601 and §435.602 of this subpart.
- (1) Individuals whose eligibility for Medicaid does not require a determination of income by the agency, including, but not limited to, individuals receiving Supplemental Security Income (SSI) eligible for Medicaid under §435.120 of this part, individuals deemed to be receiving SSI and eligible for Medicaid under §435.135, §435.137 or §435.138 of this part and individuals for whom the State relies on a finding of income made by an Express Lane agency, in accordance with section 1902(e)(13) of the Act.
 - (2) Individuals who are age 65 or older when age is a condition of eligibility.
 - (3) Individuals whose eligibility is being determined on the basis of being blind or disabled, or on the basis of being treated as being blind or disabled, including, but not limited to, individuals eligible under §435.121, §435.232 or §435.234 of this part or under section 1902(e)(3) of the Act, but only for the purpose of determining eligibility on such basis.
 - (4) Individuals who request coverage for long-term care services and supports for the purpose of being evaluated for an eligibility group under which long-term care services and supports not covered for individuals determined eligible using MAGI-based financial methods are covered, or for individuals being evaluated for an eligibility group for which being institutionalized, meeting an institutional level of care or satisfying needs-based criteria for home and community based services is a condition of eligibility. For purposes of this paragraph, “long-term care services and supports” include nursing facility services, a level of care in any institution equivalent to nursing facility services; and home and community-based services furnished under a waiver or State plan under sections 1915 or 1115 of the Act; home health services as described in sections 1905(a)(7) of the Act and personal care services described in sections 1905(a)(24) of the Act.
 - (5) Individuals who are being evaluated for eligibility for Medicare cost sharing assistance under section 1902(a)(10)(E) of the Act, but only for purposes of determining eligibility for such assistance.
 - (6) Individuals who are being evaluated for coverage as medically needy under subparts D and I of this part, but only for the purpose of determining eligibility on such basis. 42 C.F.R. § 435.603 (j).
7. With respect to the HUSKY A-Parents & Caretakers program, AHCT correctly determined that the Appellant is subject to the MAGI-based methods, as she is not part of an eligibility group for which the MAGI-based methods do not apply.
8. 26 U.S. Code (“U.S.C.”) § 36B (D) TERMS RELATING TO INCOME AND FAMILIES. For purposes of this section-
- (1) FAMILY SIZE
The family size involved with respect to any taxpayer shall be equal to the number of individuals for whom the taxpayer is allowed a deduction under

section 151 (relating to allowance of deduction for personal exemptions) for the taxable year.

(2) HOUSEHOLD INCOME

(A) HOUSEHOLD INCOME

The term "household income" means, with respect to any taxpayer, an amount equal to the sum of-

- (i) the modified adjusted gross income of the taxpayer, plus
- (ii) the aggregate modified adjusted gross incomes of all other individuals who-
 - (I) were taken into account in determining the taxpayer's family size under paragraph (1), and
 - (II) were required to file a return of tax imposed by section 1 for the taxable year.

(B) MODIFIED ADJUSTED GROSS INCOME

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.

(3) POVERTY LINE

(A) IN GENERAL

The term "poverty line" has the meaning given that term in section 2110(c)(5) of the Social Security Act (42 U.S.C. 1397jj(c)(5)).

(B) POVERTY LINE USED

In the case of any qualified health plan offered through an Exchange for coverage during a taxable year beginning in a calendar year, the poverty line used shall be the most recently published poverty line as of the 1st day of the regular enrollment period for coverage during such calendar year.

9. *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-

- (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 expenses 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. 42 C.F.R. § 435.603 (e).

10. 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. 42 C.F.R. § 435.603 (d)(1).

11. *Budget period*—

- (1) *Applicants and new enrollees.* Financial eligibility for Medicaid for applicants, and other individuals not receiving Medicaid benefits at the point at which eligibility for Medicaid is being determined, must be based on current monthly household income and family size.
- (2) *Current beneficiaries.* For individuals who have been determined financially-eligible for Medicaid using the MAGI-based methods set forth in this section, a State may elect in its State plan to base financial eligibility either on current monthly household income and family size or income based on projected annual household income and family size for the remainder of the current calendar year.
- (3) In determining current monthly or projected annual household income and family size under paragraphs (h)(1) or (h)(2) of this section, the agency may adopt a reasonable method to include a prorated portion of reasonably predictable future income, to account for a reasonably predictable increase or decrease in future income, or both, as evidenced by a signed contract for employment, a clear history of predictable fluctuations in income, or other clear indicia of such future changes in income. Such future increase or decrease in income or family size must be verified in the same manner as other income and eligibility factors, in accordance with the income and eligibility verification requirements at §435.940 through §435.965, including by self-attestation if reasonably compatible with other electronic data obtained by the agency in accordance with such sections. 42 C.F.R. § 435.603 (h).

12. 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. 42 C.F.R. § 435.603 (d)(4).
13. Allowing for a five-percentage-point disregard of the Federal Poverty Level for MAGI-based income, the HUSKY A-Parents & Caretakers income limit for a household of two living in Connecticut equals \$1,892.90 per month, or 138 percent of the monthly Federal Poverty Level, in 2018.
14. In █████ 2018, the Appellant's household's MAGI-based (federal taxable income) of \$3,002.20 exceeded \$1,892.90 per month, or 138% of the Federal Poverty Level for two per month in 2018.
15. AHCT correctly determined the Appellant's household's MAGI exceeded the HUSKY A-Parents & Caretakers coverage group's program limits of \$1,892.90 for a household of two.
16. AHCT correctly determined that the Appellant's household monthly income rendered her ineligible for HUSKY A-Parents & Caretakers coverage.
17. AHCT correctly discontinued the Appellant's HUSKY A-Parents & Caretakers coverage effective █████, 2018.

DECISION

The Appellant's appeal is DENIED.

Eva Tar - electronic signature
Eva Tar
Hearing Officer

cc: Krystal Sherman-Davis, Access Health
Becky Brown, Access Health
Mike Towers, Access Health

**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.