

STATE OF CONNECTICUT  
DEPARTMENT OF SOCIAL SERVICES  
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS  
55 FARMINGTON AVENUE  
HARTFORD, CT 06105-3730

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

Client ID # ██████████  
Hearing Request # 125961

NOTICE OF DECISION

PARTY

██████████  
██████████  
██████████

PROCEDURAL BACKGROUND

On ██████ ██████ ██████, the Health Insurance Exchange Access Health Connecticut (“AHCT”), Connecticut’s Health Insurance Exchange, issued ██████ ██████ (the “Appellant”) a notice of action advising him that he was eligible for HUSKY D Medicaid Coverage but that his wife, ██████████ was ineligible for HUSKY D Medicaid Coverage.

On ██████████, the Appellant requested an administrative hearing to contest the discontinuance of Medicaid/HUSKY D for his wife.

On ██████████, the Office of legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████  
██████████

On ██████████, 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 participated in the administrative hearing:

██████████, Appellant  
Debra Henry, AHCT Grievance and Appeals Representative  
Maureen Foley-Roy, Hearing Officer

## **STATEMENT OF ISSUE**

The issue to be decided is whether ACHT correctly determined that the Appellant's wife was ineligible to participate in the HUSKY D/Medicaid.

## **FINDINGS OF FACT**

1. The Appellant's wife entered the United States as a permanent resident on [REDACTED] 2016. (Exhibit 1: Application and Appellant's testimony)
2. When the Appellant initially applied for HUSKY D/Medicaid Coverage, he was advised that his wife was ineligible for coverage because she was not a U. S citizen and had not been in the United States for a period of five years. (Appellant's testimony)
3. In [REDACTED], the Appellant contacted AHCT regarding a change in his situation relevant to his HUSKY medical coverage. At that time, he spoke to a supervisor who advised him that his wife was eligible for HUSKY D/Medicaid Coverage by virtue of being married to a United States citizen. (Appellant's testimony)
4. In [REDACTED] a supervisor at AHCT noted in the case notes that the Appellant's wife was eligible for HUSKY D/Medicaid by virtue of being married to a United States citizen and granted HUSKY D/Medicaid for the Appellant's wife. (AHCT representative's testimony)
5. The Appellant's wife is currently a lawful permanent resident of the United States and has been issued an I- 797, authorizing a ten year extension of her stay. She has medical issues and needs medical attention. (Appellant's testimony)
6. On [REDACTED], the Appellant submitted his change renewal application to AHCT. (Exhibit 1)
7. On [REDACTED], ACHT sent the Appellant a Notice stating that his wife would lose her current health coverage effective [REDACTED]. The notice stated that the Appellant's wife does not qualify for HUSKY coverage because she has not been a lawful permanent resident of United States for 5 or more years. (Exhibit 3: Notice dated [REDACTED] 2018)

## **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 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. 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. Stat. § 17b-264.
3. Title 45, Code of Federal Regulations (“C.F.R.”) § 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. 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 a non-citizen in a satisfactory immigration status.
5. 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).
6. 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."
7. 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).
  8. 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.
  9. 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).
  10. 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.
  11. AHCT correctly determined the Appellant is not a citizen of the United States.
  12. AHCT correctly determined that as a resident alien who is not otherwise exempt, the Appellant is subject to a five-year bar from participation with respect to the Medicaid program.

13. AHCT correctly determined in [REDACTED] of 2018 that the Appellant's wife 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.


14. AHCT correctly discontinued HUSKY D/Medicaid assistance for the Appellant's wife.

### **DISCUSSION**

The Appellant received conflicting information regarding his wife's eligibility for Medicaid, given her immigration status. Initially, he was told that his wife was ineligible for benefits but at a subsequent point, a supervisor he encountered at AHCT advised that his wife was eligible for Medicaid by virtue of being married to a U. S citizen and granted benefits for the Appellant's spouse. That information was incorrect (COL #6, above) and AHCT was correct in its ultimate determination that the Appellant's wife is ineligible for Medicaid benefits for a period of five years from the date of her entry.

### **DECISION**

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



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Maureen Foley-Roy  
Fair Hearings Officer

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

## **APTC/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 Advanced Primary Tax Credits (APTC) or Cost Sharing Reduction (CSR).

## **MEDICAID AND 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, law, and 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, 25 Sigourney Street, Hartford, CT 06106.

There is no right to request reconsideration for denials or reductions of Advanced Primary Tax Credits (APTC) or Cost Sharing Reduction (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, if 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, 25 Sigourney Street, Hartford, CT 06106. 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.

