

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

██████████
Signature Confirmation

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

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 A, Parent and Caretakers healthcare coverage.

On ██████████, 2017, the Appellant requested an administrative hearing to contest the decision to deny Medicaid Husky A, Parent and Caretakers healthcare benefits.

On ██████████, 2018, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling an 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 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
Debra Henry, AHCT Representative
Almelinda McLeod, Hearing Officer

The hearing record remained open for the submission of additional evidence. On [REDACTED] 2018, the hearing closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Departments action to discontinue the Medicaid Husky A, Parent and Caretakers program was correct in accordance with the regulations.

FINDINGS OF FACT

1. The Appellant was enrolled in Husky A Parent & Caretakers from [REDACTED] 2015 through to [REDACTED], 2017. (Hearing summary)
2. In [REDACTED] 2017 the Connecticut Special Legislative Session reduced the Federal Poverty Limit ("FPL") for the Husky A Parent & Caretakers from 155% FPL (150% plus a 5% disregard) to 138% FPL (133 % plus a 5% disregard). The Husky A/ Medicaid coverage for children under 19th birthday remained at the income limit of 201% FPL (196% plus 5 % disregard). (June Special Session, Public Act No.17-2, Section 138)
3. On [REDACTED] 2017, AHCT submitted a change reporting application to update the Appellant's healthcare application. (Exhibit #1- Access Health application [REDACTED])
4. The Appellant's household includes herself, age [REDACTED] and one child, age [REDACTED] (Exhibit 1- AHCT application)
5. Neither the Appellant nor her child files taxes or are claimed as tax dependents. (Exhibit 1)
6. The Appellant is disabled and unemployed. (Exhibit 1 and Appellant's testimony)
7. The Appellant's has a monthly Social Security Disability income of \$2093.00. (Exhibit E, Social Security payment verification letter)
8. The Appellant's child receives \$1023.00 in monthly Social Security disability payments due to the Appellant's disability. (Appellant's testimony)
9. The child's SSDI income of \$1023.00 per month is excluded income. (AHCT testimony)

10. The Federal Poverty Limit ("FPL") for a household of 2 at the time of enrollment was \$16,240.00 annually; which converted equals \$1353.33 per month [$\$16,240/12 = \1353.33 . (Federal Register)
11. 138% of the FPL for a household of 2 is \$1868.00 monthly for the Medicaid Husky A, Parent and Caretakers program. (F.H. Exhibit 2017 Federal Policy Level-HUSKY chart)
12. 201% of the FPL for a household of 2 is 201% is \$2,719.00 for the Medicaid Husky A- children. (F.H. Exhibit 2017 Federal Policy Level-HUSKY chart)
13. On [REDACTED] 2017, AHCT determined the Appellant did not meet the financial criteria for the Medicaid /Husky A, Parent and Caretakers healthcare coverage. (Hearing summary)
14. On [REDACTED] 2017, AHCT determined the Appellant's child remained eligible for the Husky A, children healthcare coverage. (Hearing summary)
15. At this hearing, the Appellant submitted verification of her SSDI income of \$2093.60, (Appellant's Exhibit E), Out of pocket medical expenses of \$1437.36 from [REDACTED] 2017 through to [REDACTED] 2017 (Appellant's Exhibit C), Child Care Expenses of \$1032.00 from [REDACTED] 2017 through to [REDACTED] 2017 (Appellant's Exhibit D)
16. The Appellant did not claim any of her out of pocket medical expenses or child care expenses deductions at time of enrollment. (Exhibit 1 and Appellant's testimony)

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 (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.
 7. 42 CFR 435.603 (f) *Household*—(3) (ii) Rules for individuals who neither file a tax return nor are claimed as a tax dependent. In the case of individuals who do not expect to file a Federal tax return and do not expect to be claimed a tax dependent for the taxable year in which an initial determination or renewal of eligibility is being made, or who are described in paragraph (f)(2)(i), (f)(2)(ii), or (f)(2)(iii) of this section , the household consists of the individual and , if living with the individual (ii) The individual’s children under the age specified in paragraph (f) (3)(iv) of this section.
 8. 42 CFR 435.603 (f) (3) (iv) the age specified in this paragraph is either of the following, as elected by the agency in the State plan – (A) Age 19; or (B) Age 19 or, in the case of full time students, age 21.

The Appellant nor the Appellant's child neither files taxes nor was a tax dependent for the 2017 tax year; thus the Department correctly determined the Appellant is a household of 2.

9. 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.
10. 42 CFR 435.603 (e) *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.
11. Title 26 of the United States Code (“USC”) Section 36 B(d) (2) (B) of the internal Revenue Code (“Code”) provides that the term modified adjusted gross income “ means adjusted gross 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.

12. Title 26 USC, Subtitle A, Chapter 1, Subchapter B, Part 1 § 62 provides in part for allowable deductions. (a) General rule, For purposes of this subtitle, the term "adjusted gross income" means in the case of an individual, gross income minus the following deduction: Trade and Business Deductions, Certain Trade and Business Deductions of Employees, Losses from Sale or Exchange of Property, Deductions attributable to Rents and Royalties, Certain deductions of Life Tenants and Income Beneficiaries of Property, Pensions, Profit Sharing, and Annuity Plans of Self-Employed Individuals, Retirement Savings, Penalties forfeited because of premature withdrawal of funds from Time Savings Accounts or Deposits, Alimony, Reforestation Expenses, Certain required repayments of Supplemental Unemployment Compensation benefits, Jury duty pay remitted to Employer, Moving Expenses, Interest on Education Loans , Higher Education Expenses, Health Savings Accounts, Costs involving Discrimination Suits, Etc. and Attorney fees relating to Awards to Whistleblowers.
- 13. The Department correctly allowed \$0.00 deductions as the Appellant provided no deductions during the application process or at time of enrollment.**
14. 42 CFR §435.603(d) provides for the application of the household's modified adjusted gross income ("MAGI"). The household's 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. 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.
15. Five percent of the FPL for a family of two is \$67.65 (\$1353.00 x .05) per year.
16. The Appellant's household countable MAGI for a household of two based on the reported unearned income at time of application was \$1979.00 (\$2046.00 - 67.65= \$1978.35) rounded per month.

17. State Law (Public Act 17-2, Section 138, June 2017 Special Session) lowers the income limit for HUSKY A Parents & Caretakers Relatives. Effective January 1, 2018 the Husky A income limit for Parents and Caretakers Relatives will be reduced from 150% of the Federal Poverty Level (FPL) to 133%. The inclusion of the 5% income disregard results in an effective income limit of 138% FPL. The HUSKY A income limit for children remains at 201% FPL (196% + 5%).
- 18. The Department correctly determined the Appellant's countable MAGI income of \$1979.00 was less than 201% FPL \$2719.53 [$\$1353 \times 201\%$] for HUSKY A for children for a household of two.**
- 19. AHCT correctly determined the Appellant's child remained eligible for the Husky A, children's Medicaid.**
20. One hundred thirty-eight percent of the FPL for a household of two is \$1868.00 ($\$1353.00 \times 1.38 = 1867.14$) rounded per month.
- 21. AHCT correctly determined the Appellant's household countable MAGI household income of \$1979.00 per month exceeds the income threshold of \$1868.00 (138% FPL) for Medicaid / Husky A for Parents and Caretakers for a household of two.**
- 22. AHCT correctly determined the Appellant was over income for the Medicaid Husky A for Parents and Caretakers.**
- 23. AHCT correctly discontinued the Appellant's Medicaid Husky A for the Parent & Caretakers healthcare coverage.**


DISCUSSION

AHCT correctly denied the Appellant's Medicaid Husky A Parent & Caretaker healthcare coverage as the Appellant's SSDI income exceeds the income limits established for the program.

The Appellant inquired about allowable deductions specifically for the Husky A Parents & Caretakers Medicaid. Conclusions of Law point #12 lists all the allowable deductions for this program. The Appellant is encouraged to submit accepted deductions for future eligibility.

DECISION

The Appellant's appeal is DENIED.



Almélinda McLeod
Hearing Officer

CC: Amanda Maloney , Health Insurance Exchange, Access Health CT
Debra Henry, 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.