

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

██████████ 2019  
Signature Confirmation

████████████████████  
Hearing # 133014

**NOTICE OF DECISION**

**PARTY**

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

**PROCEDURAL BACKGROUND**

On ██████████ 2018, the Health Insurance Exchange Access Health CT (“AHCT”) issued a Notice of Action (“NOA”) to ██████████ (the “Appellant”), denying Medicaid/HUSKY D healthcare coverage for the Appellant and his spouse.

On ██████████ 2018, the Appellant requested an administrative hearing to contest the denial of Medicaid/HUSKY D.

On ██████████, 2018, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2019.

On ██████████ 2019, 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 § 457.1130, OLCRAH held an administrative hearing by telephone. The following individuals participated in the hearing:

██████████, Appellant  
Debra Henry, AHCT Representative

Carla Hardy, Hearing Officer

### **STATEMENT OF THE ISSUE**

The issue to be decided is whether Health Insurance Exchange Access Health CT ("AHCT") correctly discontinued the Medicaid/HUSKY D healthcare coverage.

### **FINDINGS OF FACT**

1. The Appellant's household consists of the Appellant and his spouse. (Exhibit 1: Application, [REDACTED]/18)
2. On [REDACTED] 2018, the Appellant submitted an application for his yearly recertification. He reported that his monthly household income equaled \$2,764.80. (Exhibit 1, Exhibit 3: NOA, [REDACTED]/18)
3. The Federal Poverty Limit ("FPL") for a household of two equals \$1,372.00. (Federal Register)
4. The Appellant attested that his monthly income totaled \$2,765.00. (Appellant's Testimony)
5. On [REDACTED] 2018, AHCT issued a notice discontinuing HUSKY D healthcare coverage effective [REDACTED], 2018. (Exhibit 3)
6. The issuance of this decision is timely under Connecticut General Statutes 17b-61(a), which requires that a decision be issued within 90 days of the request for an administrative hearing. The Appellant requested an administrative hearing on [REDACTED], 2018. Therefore, this decision is due not later than [REDACTED] 2019.

### **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 of the Code of Federal Regulations (“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) of this section that is designated by the Exchange, if the Exchange establishes an appeals process in accordance with the requirements of this subpart.
4. Title 45 CFR § 155.505(d) provides that an appeals process established under this subpart must comply with § 155.110(a).
5. Title 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.
6. Title 26 CFR § 1.36B-1(e)(1) provides in general, household income is the sum of-
  - (i) A taxpayer’s modified adjusted gross income (including the modified adjusted gross income of a child for whom an election under section 1(g)(7) is made for the taxable year);
  - (ii) The aggregate modified adjusted gross income of all other individuals who-
    - (A) Are included in the taxpayer’s family under paragraph (d) of this section; and

- (B) Are required to file a return of tax imposed by section 1 for the taxable year.
7. Title 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 expenses are excluded from income.
    - (3) American Indian/Alaska Native exceptions.
  8. Title 26 of the United States Code (“USC”) 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.
  9. Title 42 CFR § 435.945(a) provides that except where the law requires other procedures (such as for citizenship and immigration status information), the agency may accept attestation of information needed to determine the eligibility of an individual for Medicaid (either self-attestation by the individual or attestation by an adult who is in the applicant’s household, as defined in §435.603(f) of this part, or family, as defined in section 36B(d)(1) of the Internal Revenue Code, an authorized representative, or, if the individual is a minor or incapacitated, someone acting responsibly for the individual) without requiring further information (including documentation) from the individual.
  10. The State Plan Amendment (“SPA”) # 14-003MM3 provides in relevant part that financial eligibility for current beneficiaries is based on current monthly household income and family size.
  11. The Appellant attested that his monthly modified adjusted gross income (“MAGI”) equals \$2,765.00.
  12. AHCT correctly determined the Appellant’s MAGI equals \$2,765.00 monthly (rounded to the nearest whole dollar).

13. Title 42 CFR § 435.119 provides that Medicaid health coverage is available for individuals age 19 or older and under age 65 at or below 133 percent of the Federal Poverty Limit ("FPL").
  - (b). 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 the 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 for the applicable family size.
14. One Hundred thirty-three percent of the FPL for a two person household equals \$1,825.00 [ $\$1,372.00 \times 1.33 = \$1,825.00$  (rounded to the nearest whole dollar)].
15. The Medicaid/HUSKY D income limit for a household of two is \$1,825.00 monthly.
16. Title 42 CFR §435.603(d) provides for the application of the household's modified adjusted gross income ("MAGI"). A state must subtract an amount equivalent to 5 percentage points of the Federal poverty level for the applicable family size.
17. Five percent of the FPL for a two person household equals \$68.60 ( $\$1,372.00 \times .05 = \$68.60$ ).
18. The Appellant's countable MAGI equals \$2,696.00 [ $\$2,765.00 - \$68.60 = \$2,696.00$  (rounded to the nearest whole dollar)] per month.
19. The Appellant's \$2,696.00 countable MAGI exceeds the \$1,825.00 income limit for a household of two.
20. AHCT correctly determined that the Appellant's monthly income exceeds the Medicaid/Husky D income limit.
21. Title 42 CFR 435.917(a) provides that the agency must provide all applicants and beneficiaries with timely and adequate written notice of any decision affecting their eligibility, including an approval, denial, termination or suspension of eligibility, or a denial or change in benefits and services.

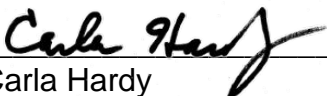
22. Uniform Policy Manual § 1570.10(A)(1) provides that the Department gives adequate notice at least ten days prior to the date of the intended action if the Department intends to discontinue, terminate, suspend or reduce benefits.
23. AHCT failed to give the Appellant 10 day notice when they discontinued the Appellant's HUSKY D healthcare coverage.
24. On [REDACTED] 2018, AHCT incorrectly terminated the Appellant's HUSKY D healthcare coverage effective [REDACTED] 2018.

### **DECISION**

The Appellant's appeal is **GRANTED** in part and **DENIED** in part.

### **ORDER**

1. AHCT shall reinstate the HUSKY D healthcare coverage effective the date of termination.
2. AHCT shall provide the Appellant with a new termination notice at least ten days prior to the proposed termination date.
3. Compliance with this order shall be submitted to the undersigned no later than [REDACTED], 2019.

  
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Carla Hardy  
Hearing Officer

Pc: Debra Henry, AHCT  
Becky Brown, AHCT  
Mike Towers, AHCT

**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.