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

[redacted] 2019
Signature Confirmation

CLIENT No # [redacted]
Request # [redacted]

NOTICE OF DECISION

PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted]2, 2019, the Health Insurance Exchange Access Health CT- ("AHCT") sent [redacted] (the "Appellant") a Notice of Action ("NOA") discontinuing the Appellant's Medicaid Husky D healthcare coverage.

On [redacted] 2019, the Appellant requested an administrative hearing to contest the decision to deny Medicaid Husky D benefits.

On [redacted] 2019, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for [redacted], 2019.

On [redacted] 2019, the Appellant requested an in person administrative hearing and it was granted.

On [redacted], 2019, OLCRAH issued a notice scheduling his administrative hearing for [redacted] 2019.

On [redacted], 2019, in accordance with sections 17b-60, 17-61 and 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.

The following individuals were present at the hearing:

[redacted], Appellant
Sabrina Solis, Appeals Coordinator, AHCT Representative
Becky Brown, Appeals Coordinator Supervisor, AHCT Representative
Jessica Guilianello, DSS Department Representative
Almelinda McLeod, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether the Departments action to discontinue the Medicaid Husky D program was correct in accordance with the regulations.

FINDINGS OF FACT

1. On [redacted], 2019, the Appellant submitted a change reporting application requesting medical insurance. (Exhibit #1- Access Health application # 6748208)

2. The Appellant is a household of one and files his taxes as single filing taxes. (Exhibit 1)

3. The Appellant reported a change in his yearly modified adjusted gross income ("MAGI") from $12,000.00 in 2018 to $20,160.00 projected for 2019. (Exhibit #1, Appellant testimony)

4. The Appellant reported a household monthly gross income of $1715.70 per month. (Exhibit 1)

5. The Appellant started a job at [redacted] Department Stores in loss prevention on [redacted] 2018. The Appellant earns $10.50 per hour and works an average of 38 hours per week. [10.50 x 38= $399 x 4.3= $1715.70]

6. Under MAGI, any pretax deductions taken out of the Appellant's check, like uniform and or union dues, personal health insurance, dental and/or vision expenses and/or insurance, private life insurance, IRA contributions are all considered allowable expenses. (AHCT testimony)

7. From the gross income, the Appellant estimated $1,478.00 out of pocket expenses which includes living expenses like rent, gas, heat and hot water, cell phone, bus pass, groceries, clothing, personal hygiene, meals out, miscellaneous household , Ct. Care premiums , E.R. visit and Personal Care Physician, medications, dental and vision co-pays. (Exhibit B, Appellant's Monthly expenses)

8. None of these expenses were reported in the [redacted] 2019 application. (Exhibit 1)

9. On [redacted] 2019, AHCT discontinued the Appellant's Husky D for because his household income exceeded the income limit.

10. The Federal Poverty Limit ("FPL") for a household of one at the time of enrollment is $12,490 per year which converted equals $1040.83 ($12,490 / 12 = 1040.83) per month. (Federal Register).

11. The FPL for Husky D for 19 years old to age 65 in a household of 1 is $1396.56 (138% of the FPL).

12. On [redacted], 2019, AHCT issued an Application results letter notifying the Appellant the Medicaid Husky D was discontinued because his household income exceeded the income limit for Husky D.

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. **The Appellant files single filing taxes. His MAGI household consists of himself. He is a household of one.**

8. 42 CFR § 435.945 (a) provides 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 (with 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.

9. 42 CFR § 435.952 (b) If information provided by or on behalf of an individual (on the application or renewal form or otherwise) is reasonably compatible with information obtained by the agency in accordance with §435.948, 435.949 or 435.956 of this subpart, the agency must determine or renew eligibility based on such information.

10. 42 CFR 435.603 (e) *MAGI-based incomes.* 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, <u>with the following exceptions</u>—(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. 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- (1) 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. **AHCT correctly determined the Appellant did not have any exclusions, expenses or deductions to his income provided at application in order to arrive at his MAGI.**

13. 42 CFR §435.603(d) (4) 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

14. .Five percent of the FPL for a household of one is $624.50 ($12,490 x. 05) per year which was converted to $52.04. ($624.50/12 months) per month.

15. **The Appellant's household countable MAGI for a household of one based on the reported income at time of application was $1662.96 ($1715.00 - $52.04) per month.**

16. 42 CFR § 435.119 (b) provides that Medicaid health coverage is available for the individuals age 19 or older and under age 65 at or below 133 percent of the Federal Poverty Limit ("FPL"). Eligibility. 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.

17. **One hundred thirty three percent of the FPL for a household of one is $1384.30 ($1040.83 x 1.33).**

18. **The Appellant's household countable MAGI household income of $1662.96 per month exceeds the income threshold for one, $1384.30.**

19. **The Appellant is over income for the Medicaid Husky D insurance.**

20. **AHCT was correct to deny the Appellant's application for Medicaid Husky D as a household of one.**

DISCUSSION

The Appellant did not report any deductions on his Husky D application. Under MAGI, the following deductions are considered allowable deductions: student loan interest; one half of self-employment tax; qualified tuition expenses; tuition and fees deduction; educator expenses, moving expenses, health savings account deduction, Alimony paid; IRA contributions, taxable social security payments. According to policy and regulations, neither household expenses, groceries, clothing, eating out, cell phone, bus pass or maintaining one's own personal hygiene are considered allowable deductions for the determination of Husky D Medicaid. The Appellant is encouraged to include such deductions in future determinations of eligibility.

The Appellant was approved for bariatric by-pass surgery; he decided to postpone this procedure because of the new job with [redacted] Department store. In doing so, his income exceeded the income limit for Husky D when he reported the change. He is now presently active under a Qualified Health Plan ("QHP") with Connecticut Care with an Applied Premium Tax Credit ("APTC") of $46.00. The Appellant is concerned that Connecticut Care does not cover the bariatric by-pass surgery and also concerned that due to his expenses, he is unable to afford the APTC $46.00 premium. The Appellant requested to be re-instated, at least for the Bariatric by-pass surgery. However, current regulations does not allow for Husky D to be re-instated for such a purpose.

Under the policies and regulations of the Affordable Care Act, AHCT was correct to determine the Appellant was not eligible for Husky D because the household income exceeds the 133 % FPL for a household of one.

DECISION

The Appellant's appeal is DENIED.

Almelinda McLeod
Hearing Officer

CC: Becky Brown, Health Insurance Exchange, Access Health CT
Mike Towers, Health Insurance Exchange, Access Health CT
Sabrina Solis, Health Insurance Exchange, Access Health CT

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.