

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

██████████ 2019  
Signature confirmation

Case: ██████████  
Client: ██████████  
Hearing request: 143082

**NOTICE OF DECISION**

**PARTY**

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

**PROCEDURAL BACKGROUND**

On ██████████ 2019, ██████████, the Appellant, telephoned a hearing request to the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) as to her children’s medical coverage through the Children’s Health Insurance Plan (“CHIP”)/HUSKY-B program.

On ██████████, 2019, the OLCRAH issued a notice scheduling the administrative hearing for ██████████, 2019. The OLCRAH granted the Appellant two postponements to the proceeding.

On ██████████ 2019, in accordance with sections 17b-60, 17b-61, and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, and Title 45, 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 by conference call. The following individuals participated:

██████████, Appellant  
Cathy Davis, AHCT’s representative  
Eva Tar, Hearing Officer

The hearing officer extended the close of the hearing record to permit AHCT to submit a copy of its *Notice of Action* establishing the effective date of grant of the Appellant’s children’s medical coverage.

AHCT did not submit the document and did not request additional time for good cause to submit the evidence. The record closed ██████████ 2019.

## **STATEMENT OF ISSUE**

The issue is whether AHCT correctly determined the effective date of the Appellant's children's CHIP/HUSKY-B coverage.

## **FINDINGS OF FACT**

1. The Appellant gave birth to twins on [REDACTED] 2018. (Appellant's testimony)
2. The Appellant's children had medical coverage through private insurance for the 60 days subsequent to their birth. (Appellant's testimony)
3. On [REDACTED] 2018, the Appellant reported the children's birth to AHCT. (AHCT's representative's testimony)
4. AHCT granted the Appellant's children medical coverage through the CHIP/HUSKY-B program effective [REDACTED] 2019. (Appellant's testimony)(AHCT's representative's testimony)
5. AHCT cannot explain how [REDACTED] 2019 was determined to be the effective date of the children's CHIP/HUSKY-B coverage. (AHCT's representative's testimony)
6. The Appellant is seeking CHIP/HUSKY-B medical coverage for her children effective [REDACTED] 2018. (Appellant's testimony)
7. Connecticut General Statutes § 17b-61 (a), as amended on passage by Section 309 of *Public Act No. 19-117 (January Session)*, provides in part that a final decision shall be rendered not later than 90 days from the date the Commissioner receives a request for a fair hearing, provided that the time for rendering a final decision shall be extended whenever the aggrieved person requests or agrees to an extension.

On [REDACTED] 2019, the OLCRAH received the Appellant's telephoned hearing request. The OLCRAH granted the Appellant's subsequent requests for postponements of the hearing date, resulting in a 53-day delay to the proceeding. This final decision therefore would have become overdue as of [REDACTED], 2019. This final decision is timely.

## **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...." Conn. Gen. Stat. § 17b-260.

"Title XXI of the Social Security Act, enacted in 1997 by the Balanced Budget Act, authorizes Federal grants to States for provision of child health assistance to uninsured, low-income children. The program is jointly financed by the Federal and State governments and administered by the States. Within broad Federal rules, each State

decides eligible groups, types and ranges of services, payment levels for benefit coverage, and administrative and operating procedures.” 42 C.F.R. § 457.1.

“*Children’s Health Insurance Program (CHIP)* means a program established and administered by a State, jointly funded with the Federal government, to provide child health assistance to *uninsured, low-income children* through a separate child health program, a Medicaid expansion program, or a combination program....” 42 C.F.R. § 457.10 (emphasis added).

“As used in that section and sections 17b-292, 17b-294a, 17b-295, 17b-297a, 17b-297b and 17b-300, of the Connecticut General Statutes, “HUSKY B” means the health coverage for children established pursuant to the provisions of sections 17b-290, 17b-292, 17b-294a, 17b-295, 17b-297a, 17b-297b and 17b-300.” Conn. Gen. Stat. § 17b-290 (14).

**The Department of Social Services has the authority to administer the CHIP/HUSKY-B program.**

2. Title 45, Section 155.110 (a) of the Code of Federal Regulations 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 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).

**The Department of Social Services has the authority to appoint AHCT to implement a Health Insurance Exchange to review CHIP/HUSKY-B applications.**

3. “The department’s uniform policy manual is the equivalent of a state regulation and, as such, carries the force of law.” *Bucchere v. Rowe*, 43 Conn. Supp. 175, 178 (1994) (citing Conn. Gen. Stat. § 17b-10; *Richard v. Commissioner of Income Maintenance*, 214 Conn. 601, 573 A.2d 712 (1990)).

The fair hearing official determines the issue of the hearing and considers all relevant issues. Uniform Policy Manual (“UPM”) § 1570.25 C.2.c. and C.2.d.

4. The Exchange must determine an applicant eligible for CHIP if he or she meets the requirements of 42 C.F.R. §§ 457.310 through 457.320 and has a household income, as

defined in 42 C.F.R. § 435.603(d), at or below the applicable CHIP [Modified Adjusted Gross Income]-based income standard. 45 C.F.R. § 155.305 (d).

*“Effective date of eligibility. A State must specify a method for determining the effective date of eligibility for CHIP, which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between CHIP and other insurance affordability programs as family circumstances change and avoids gaps or overlaps in coverage.”* 42 C.F.R. § 457.340 (g).

**Connecticut has the authority to implement a method for determining the effective date of eligibility with respect to its CHIP/HUSKY-B program participants.**

**It cannot be determined from the hearing record whether the Appellant’s children were eligible to receive CHIP/HUSKY-B medical coverage effective [REDACTED] 2018.**

**DECISION**

The issue of this hearing is REMANDED to AHCT for further action.

**ORDER**

1. AHCT will determine the effective date of the Appellant’s children’s eligibility to receive CHIP/HUSKY-B medical coverage. In making its determination, AHCT will consider the Appellant’s [REDACTED] 2018 report of their birth to AHCT as well as whether the household meets the financial and non-financial requirements of that program.
2. AHCT will notify the Appellant in writing of the effective date of the children’s eligibility to receive CHIP/HUSKY-B medical coverage, preserving her right to a hearing to dispute that date, should she file a hearing request within 60 days of the date of AHCT’s notice.
3. Within 14 days of the date of this decision, or [REDACTED], 2019, documentation of compliance with this order is due to the undersigned.

*Eva Tar - electronic signature*  
Eva Tar  
Hearing Officer

Cc: Cathy Davis, AHCT  
Becky Brown, AHCT  
Mike Towers, AHCT

## **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 Premium 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 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.

There is no right to request reconsideration for denials or reductions of Advanced Premium 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, 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.