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

[redacted] **2020**
Signature Confirmation

[redacted]
Request # 148963

NOTICE OF DECISION
PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted] 2018, the Health Insurance Exchange, Access Health CT ("AHCT") approved [redacted] (the "Appellant") application for the Children's Health Insurance Program ("CHIP") HUSKY B healthcare coverage with an effective date of [redacted] 2019 for her son [redacted] (the "child").

On [redacted] 2019, the Appellant requested an administrative hearing by telephone to contest the process delay in the granting of HUSKY B coverage for her child. An exception to the time limit for requesting a hearing was granted by the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH").

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

On [redacted] 2019, OLCRAH, with agreement from both parties, issued a notice rescheduling the administrative hearing for [redacted] 2020.

On [redacted] 2020, in accordance with sections 17b-60, 17b-264 and 4-176e to 4-184, inclusive, of the Connecticut General Statutes, Title 45 Code of Federal Regulations ("C.F.R.") §§ 155.505(b) and 155.510 and/or 42 CFR § 457.113, OLCRAH held an administrative hearing by telephone.

The following individuals called in for the hearing:
[redacted] Appellant
Cathy Davis, AHCT Representative
Christopher Turner, Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether AHCT correctly delayed the processing of HUSKY B coverage for her child.

FINDINGS OF FACT

1. On [redacted] 2018, the Appellant submitted a change reporting application to AHCT. (Exhibit 1: Application form; Hearing summary)

2. On [redacted] 2018, AHCT issued the Appellant a notice indicating HUSKY B coverage for her child was granted effective [redacted] 2019. (Exhibit 2: Health Care Coverage notice; Exhibit 3: Eligibility Determination printout)

3. The Appellant's household consists of two adults and two children. The Appellant is [redacted] years old (DOB [redacted]), resides with her spouse age [redacted] (DOB [redacted]) and their two children. Both adults are Naturalized Citizens and the children are U.S. Citizens. (Exhibit 1: Application form; Exhibit 4: Application information; Hearing summary; Appellant's testimony)

4. The Appellant's spouse does not receive employer-sponsored health insurance. (Appellant's testimony)

5. The parents were active under a Qualified Health Plan ("QHP") when the Appellant's son was born. (Exhibit 2; Record; Appellant's testimony)

6. AHCT's Eligibility Determination Results printout indicates HUSKY B coverage for the child was granted effective [redacted]18 while the [redacted] 2018 notice indicates an effective date for the child as of [redacted] 2019. (Exhibit 2; Exhibit 3)

7. The AHCT representative testified that due to the parent's eligibility under a QHP, a sixty-day waiting period before eligibility can begin for a newborn child is required. (AHCT's testimony)

8. The Appellant has outstanding medical bills in [redacted] 2018, [redacted] 2018 and [redacted] 2018 for her child born [redacted]18 and is seeking medical coverage effective [redacted] 2018. (Appellant's testimony)

9. 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] 2019 with the decision due by [redacted] 2020. However, due to a [redacted] delay, this decision is due by [redacted] 2020. (Hearing Record)

CONCLUSIONS OF LAW

1. Connecticut General Statutes ("Conn. Gen. Stat.") § 17b-2 provides that the Department of Social Services is designated as the state agency for the administration of (6) the Medicaid program pursuant to Title XIX of the Social Security Act.

2. Conn. Gen. Stat. § 17b-260 provides that 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-264 provides that 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. 45 C.F.R. § 155.20 defines "SHOP" as a Small Business Health Options Program operated by an Exchange through which a qualified employer can provide its employees and their dependents with access to one or more QHPs.

   45 C.F.R. § 155.100 provides for the establishment of a state exchange. (a) Each state may elect to establish: (1) An Exchange that facilitates the purchase of health insurance coverage in QHPs in the individual market and that provides for the establishment of a SHOP; or (2) An Exchange that provides only for the establishment of a SHOP.

   45 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.

45 C.F.R. § 155.505(c) provides that Exchange eligibility appeals may be conducted by - (1) 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.

45 C.F.R. §155.505(d) provides that an appeals process established under this subpart must comply with § 155.110(a).

AHCT is the Department's authorized entity to conduct state appeals.

AHCT acted within its authority to determine the effective date of HUSKY B coverage for her children.

4. Conn. Gen. Stat. § 17b-292 provides for expedited eligibility under HUSKY B and presumptive eligibility under Medicaid. (a) A child who resides in a household with household income which exceeds one hundred ninety-six percent of the federal poverty level and does not exceed three hundred eighteen percent of the federal poverty level may be eligible for benefits under HUSKY B.

   Conn. Gen. Stat. § 17b-292 (d) provides a newborn child who otherwise meets the eligibility criteria for HUSKY B shall be eligible for benefits retroactive to his or her date of birth, provided an application is filed on behalf of the child not later than thirty days after such date. Any uninsured child born in a hospital in this state or a border state hospital shall be enrolled on an expedited basis in HUSKY B, provided (1) the parent or caretaker relative of such child resides in this state, and (2) the parent or caretaker relative of such child authorizes enrollment in the program. The commissioner shall pay any premium cost such household would otherwise incur for the first four months of coverage.

   42 C.F.R. § 435.118 provides for mandatory coverage for infants and children under age 19. (b) *Scope.* The agency must provide Medicaid to children under age 19 whose household income is at or below the income standard established by the agency in its State plan, in accordance with paragraph (c) of this section.

   42 C.F.R. § 435.915 (a) provides the agency must make eligibility for Medicaid effective no later than the third month before the month of application if the individual – (1) Received Medicaid services, at any time during that period, of a type covered under the plan; and (2) Would have been eligible for Medicaid at the time he received the services if he had applied (or someone had applied for him), regardless of whether the individual is alive when the application for Medicaid is made.

   42 C.F.R. § 435.915 (b) provides the agency may make eligibility for Medicaid effective on the first day of a month if an individual was eligible at any time during that month.

42 C.F.R. § 457.340 (g) provides for the 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.

45 C.F.R. § 155.305 (d) provides eligibility for the CHIP. The Exchange must determine an applicant eligible for CHIP if he or she meets the requirements of 42 CFR 457.310 through 457.320 and has a household income, as defined in 42 CFR 435.603(d), at or below the applicable CHIP MAGI-based income standard.

The Appellant requested HUSKY B coverage for her child effective his date of birth.

AHCT incorrectly determined the effective date of eligibility for her child. The correct date of eligibility for her child is [redacted] 2018, not [redacted] 2018.

DISCUSSION

There were conflicting notices issued by AHCT that indicated an [redacted] 2018 effective date and a [redacted] 2019 effective date for the Appellant's child. The reason for a [redacted] 2018 HUSKY B eligibility effective date for her child as determined by AHCT and not [redacted] 2018 is unclear. The explanation that was provided at the hearing that a sixty-day waiting period must be met before coverage begins for the Appellant's child is not supported by C.F.R. or regulation. The Appellant's child is eligible for the first of the month in which he was born. The correct begin date of eligibility for [redacted] is [redacted] 2018.

DECISION

The Appellant's appeal is granted.

ORDER

1. The Department is instructed to grant HUSKY B for [redacted] effective [redacted] 2018.

2. Compliance with this order is due no later than 10 days from the date of this decision and will consist of the child's eligibility grant notice.

Christopher Turner
Hearing Officer

Cc: Becky Brown, Health Insurance Exchange, Access Health CT
Mike Towers, Health Insurance Exchange, Access Health CT
Cathy Davis, Health Insurance Exchange, Access Health 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, 55 Farmington Avenue, Hartford, CT 06105.

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, 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.