

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

██████████ 2020
Signature Confirmation

████████████████████
Request # 152616

NOTICE OF DECISION

PARTY

████████████████████
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PROCEDURAL BACKGROUND

On ██████████ 2020, Access Health CT (“AHCT”) sent ██████████ (the “Appellant”) a notice of action discontinuing her Medicaid benefits under the Husky A Extended Medical Assistance Program (“X03”) effective ██████████ 2020.

On ██████████ 2020, the Appellant requested an administrative hearing to contest the Department’s action to discontinue such benefits.

On ██████████ 2020, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2020.

On ██████████ 2020, in accordance with sections 17b-60, 17b-61 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 C.F.R. §457.113, OLCRAH held an administrative hearing by telephone.

The following individuals called in for the hearing:

████████████████████ Appellant
Debra Henry, AHCT Representative
Christopher Turner, Hearing Officer

STATEMENT OF THE ISSUES

The first issue to be decided is whether AHCT's decision to discontinue the Appellant's X03 Medicaid assistance effective [REDACTED] 2020, was correct.

The second issue to be decided is whether AHCT's decision to deny the Appellant's request for Husky A for Parents/Caretakers ("X07") Medicaid assistance due to having income above the program limit was correct.

FINDINGS OF FACT

1. On [REDACTED] 2020, AHCT received the Appellant's Husky renewal application. (Exhibit 1: Application; Hearing summary)
2. On [REDACTED] 2020, AHCT processed the Appellant's Husky renewal. (Record; Hearing summary)
3. On [REDACTED] 2020, AHCT sent the Appellant an Eligibility Determination notice. The notice indicated in the relevant part, "You ([REDACTED]) no longer qualify for Husky A – Transitional Medical Assistance because the maximum coverage period is 12 months." Also, the notice indicated the Appellant was found ineligible for an advanced premium tax credit ("APTC") due to her tax filing status of married filing separately. (Exhibit 5: Notice)
4. The Appellant resides with her husband and their minor child. (Exhibit 4: Application; Hearing summary; Appellant's testimony)
5. The Appellant received X03 from [REDACTED] 2019, through [REDACTED] 2020. The Appellant's child and her husband receive Husky A – Parents and Caretakers with an eligibility end date of [REDACTED] 2020. (Exhibit 3: Eligibility determination; Record; Appellant's testimony)
6. The Appellant's current tax filing status for 2019 is married filing separately. (Appellant's testimony)
7. The Appellant, for the purpose of an X07 eligibility determination, is considered a household of two – herself and her husband. (Exhibit 3; Hearing summary; Department's testimony)
8. The Appellant and her husband are employed part-time for [REDACTED]. AHCT determined the Appellant's total monthly household income to be \$2,687.50. (\$14,300 yearly for the Appellant and \$18,000 yearly for the Appellant's spouse). (Exhibit 4; Appellant's testimony)

9. The Federal Poverty Level (“FPL”) for an assistance unit of two used in AHCT’s eligibility calculation was \$16,910.00 yearly or \$1,409.17 monthly. (84 Federal Register 1167)
10. The Husky A income limit is equal to 160% of the FPL for the appropriate family size. (Record)
11. The monthly income limit used by AHCT for an assistance unit of two applying for or receiving Husky A for Parents/Caretakers was \$2,256.00 monthly. (Record; Hearing summary)
12. 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] 2020, with the decision due by [REDACTED] 2020. However, due to Governor Lamont’s executive order 7M extending the due date for a Medicaid decision to 120 days, this decision was due no later than [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.

Conn. Gen. Stat. § 17b-260 of the Connecticut General Statutes authorizes 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. 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)(1) provides that exchange eligibility appeals may be conducted by a State Exchange appeals entity or an eligible entity described in paragraph (d) or 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 acted within its authority to review the Appellant's HUSKY A Medicaid case to determine whether she continued to meet the eligibility requirements of the X03 Medicaid program.

3. "The department's Uniform Policy Manual ("UPM") is the equivalent of 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)).
4. 42 C.F.R. § 431.211 provides for advance notice. The State or local agency must send a notice at least 10 days before the date of action, except as permitted under §§431.213 and 431.214.

42 C.F.R. § 431.245 provides for notifying the applicant or beneficiary of a State agency decision. The agency must notify the applicant or beneficiary in writing of – (a) The decision; and (b) The right to request a State agency hearing or seek judicial review, to the extent that either is available to him/her.

AHCT properly notified the Appellant in writing on [REDACTED] 2020, of the proposed Husky Health discontinuance end date of [REDACTED] 2020, and her rights to a Hearing/Appeal.

5. Conn. Gen. Stat. §17b-261 (f) provides, to the extent permitted by federal law, Medicaid eligibility shall be extended for one year to a family that becomes ineligible for medical assistance under Section 1931 of the Social Security Act due to income from employment by one of its members who is a caretaker relative or due to receipt of child support income. A family receiving extended benefits on July 1, 2005, shall receive the balance of such extended benefits, provided no such family shall receive more than twelve additional months of such benefits.

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.

UPM § 2540.01 (A) provides that in order to qualify for medical assistance an individual must meet the conditions of at least one coverage group. 3. An FMA assistance unit may contain individuals eligible under separate coverage groups.

UPM § 2540.01 (A) (1) provides that the group of people who qualify for Extended Medical Assistance includes members of assistance units who lose eligibility for HUSKY A for Families (F07) (cross reference: 2540.24) under the following circumstances: a. the assistance unit becomes ineligible because of hours of, or income from, employment.

UPM § 2540.09 (A) (2) provides that the assistance unit is not required to pass any income or asset tests during the twelve month period of eligibility for X03 Medical Assistance.

UPM § 2540.09 (B) (1) provides that individuals qualify for HUSKY A under this coverage group for the twelve month period beginning with the first month of ineligibility for X07.

UPM § 2540.09 (B) (3) provides that Extended Medical Assistance benefits may end prior to the end of the twelve-month period of eligibility under the following circumstances:

- a. the assistance unit moves out of state; or
- b. all members of the assistance unit expire; or
- c. there is no longer a child in the home under 19 years of age; or
- d. the assistance unit applies for and is found eligible for another Medicaid coverage group.

The Department correctly discontinued the Appellant's X03 effective [REDACTED] 2020, as the Appellant received twelve months of coverage.

6. 42 C.F.R. §435.603 (f) Household—(1) Basic rule for taxpayers not claimed as a tax dependent. In the case of an individual who expects to file a tax return for the taxable year in which an initial determination or renewal of eligibility is being made, and who does not expect to be claimed as a tax dependent by another taxpayer, the household consists of the taxpayer and, subject to paragraph (f)(5) of this section, all persons whom such individual expects to claim as a tax dependent.

42 C.F.R. § 435.603 (f) (2) provides for the basic rule for individuals claimed as a tax dependent. In the case of an individual who expects to be claimed as a tax dependent by another taxpayer for the taxable year in which an initial determination

or renewal of eligibility is being made, the household is the household of the taxpayer claiming such individual as a tax dependent, except that the household must be determined in accordance with paragraph (f)(3) of this section in the case of (i) Individuals other than a spouse or child who expect to be claimed as a tax dependent by another taxpayer; and (ii) Individuals under the age specified by the State under paragraph (f)(3)(iv) of this section who expect to be claimed by one parent as a tax dependent and are living with both parents but whose parents do not expect to file a joint tax return and; (iii) Individuals under the age specified by the State under paragraph (f)(3)(iv) of this section who expect to be claimed as a tax dependent by a non-custodial parent.

42 C.F.R. § 435.603 (f) (4) provides for married couples. In the case of a married couple living together, each spouse will be included in the household of the other spouse, regardless of whether they expect to file a joint tax return under section 6013 of the Code or whether one spouse expects to be claimed as a tax dependent by the other spouse.

AHCT correctly determined based on the Appellant's tax filing status of married filing separately the Appellant and her husband are considered a household of two.

7. 45 C.F.R. § 155.320(a)(1) provides that the Exchange must verify information in accordance with this section only for an applicant or tax filer who requested an eligibility determination for insurance affordability programs in accordance with § 155.310(b). (2) Unless a request for modification is granted in accordance with § 155.315(h), the Exchange must verify or obtain information in accordance with this section before making an eligibility determination for insurance affordability programs and must use such information in such determination.

45 C.F.R. § 155.320(c)(1)(i) provides for data verification of household income and household size. (A) For all individuals whose income is counted in calculating a tax filer's household income, as defined in 26 CFR 1.36B-1(e), or an applicant's household income, calculated in accordance with 42 CFR 435.603(d), and for whom the Exchange has a Social Security number, the Exchange must request tax return data regarding MAGI and family size from the Secretary of the Treasury and data regarding Social security benefits described in 26 CFR 1.36B-1(e)(2)(iii) from the Commissioner of Social Security by transmitting identifying information specified by HHS to HHS. (B) If the identifying information for one or more individuals does not match a tax record on file with the Secretary of the Treasury that may be disclosed in accordance with section 6103(l)(21) of the Code and its accompanying regulations, the Exchange must proceed in accordance with § 155.315(f)(1).

One hundred sixty percent of the FPL for a household two used in AHCT's eligibility calculation for a parent or caretaker relative totaled \$2,256.00.

AHCT correctly determined the Appellant's monthly household income of \$2,687.50 exceeded the \$2,256.00 monthly income limit for an assistance unit of two applying for or receiving Husky A for Parents/Caretakers.

DECISION

The Appellant's appeal is denied.


Christopher Turner
Hearing Officer

Cc: Becky Brown, Health Insurance Exchange Access CT
Mike Towers, Health Insurance Exchange Access CT
Debra Henry, Health Insurance Exchange Access 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.

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, if 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.