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

[redacted] 2020
Signature Confirmation

Client ID # [redacted]
Hearing Request # 157574

NOTICE OF DECISION

PARTY

[redacted]
[redacted]
[redacted]

PROCEDURAL BACKGROUND

On [redacted] 2020, the Health Insurance Exchange Access Health CT ("AHCT") issued a notice of action ("NOA") to [redacted] (the "Appellant") informing him that he and his wife no longer qualified for *HUSKY A – Parents & Caretakers* health coverage as of [redacted] 2020 because his household had income that exceeded the limit for the program.

On [redacted] 2020, the Appellant requested a hearing to appeal his household's loss of HUSKY A medical benefits.

On [redacted] 2020, the Office of legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for [redacted] 2020.

On [redacted] 2020, 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 were present at the hearing:

[redacted] Appellant
Sabrina Solis, Appeals Coordinator for AHCT
James Hinckley, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether AHCT was correct when it discontinued the Appellant's household's HUSKY A benefits for the reason that the household's income exceeded the limit.

FINDINGS OF FACT

1. As of ████ 2020, the Appellant and his wife were receiving *HUSKY A – Parents & Caretakers* medical coverage. The coverage was approved on an earlier date. (Hearing Record)

2. The Appellant and his wife have a 17 year old daughter who lives with them. The Appellant declared to AHCT that his daughter would be filing taxes as single, filing separately. (Ex. 1: Application Information)

3. AHCT determined, based on household composition rules for coverage based on MAGI (Modified Adjusted Gross Income)-based income, that the Appellant's household was comprised of two persons, himself and his wife. The couple's daughter was not included in the household because she intended to file taxes separately. (Ms. Solis' testimony)

4. The Appellant receives gross Social Security income in the amount of $1,648.00 per month. (Hearing Record)

5. On ████ 2020, AHCT requested information and documents from the Appellant to process and confirm his household's eligibility. The requested documents included, for his wife, proof of her employment income. The acceptable document types were listed as: a month's worth of current paystubs; an employer letter; or records such as a tax return, w-2 or 1099 filed with the IRS after the household's application date. The due date to provide the documents was ████ 2020. (Ex. 4: Notice 1302H dated ████ 2020)

6. On ████ 2020, AHCT received documents on behalf of the Appellant. The documents included a form W-2 for the Appellant's wife showing that she earned a total of $75,269.78 in 2019. (Ex. 5-C: W-2 form)

7. Annual earning of $75,269.78, converted to a monthly amount (divided by twelve months) is $6,272.48 per month. (Ms. Solis' testimony, calculation)

8. On ████ 2020, AHCT issued a NOA to the Appellant discontinuing his household's health coverage under *HUSKY A – Parents & Caretakers* effective ████ 2020, because his household's income exceeded the limit. The NOA

included the information, “The income limit for a household of size of 2 is $2,299.00.” (Ex 2: NOA dated [redacted] 2020)

9. The Appellant’s wife is, in fact, not currently employed. She was laid off from her job at the end of [redacted] 2019. Her termination from the company included severance pay. She has deferred any potential eligibility for Unemployment Compensation Benefits until her severance money is exhausted. She has no income currently. (Appellant’s testimony)

CONCLUSIONS OF LAW

1. Section 17b-260 of the Connecticut General Statutes (“Conn. Gen. Stat.”) 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.

2. Conn. Gen. Stat. Sec. 17b-264 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. 45 CFR § 155.505(d) provides that an appeals process established under this subpart must comply with § 155.110(a).

5. 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 health insurance markets and in benefit 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. 45 CFR § 155.300(b) *Medicaid and CHIP* In general, references to Medicaid and CHIP regulations in this subpart refer to those regulations as implemented in accordance with rules and procedures which are the same as those applied by the State Medicaid or State CHIP agency or approved by such agency in the agreement described in § 155.345(a).

7. 45 CFR § 155.305(c) *Eligibility for Medicaid* The Exchange must determine an applicant eligible for Medicaid if he or she meets the non-financial eligibility criteria for Medicaid for populations whose eligibility is based on MAGI-based income, as certified by the Medicaid agency in accordance with 42 CFR 435.1200(b)(2), has a household income, as defined in 42 CFR 435.603(d), that is at or below the applicable Medicaid MAGI-based income standard as defined in 42 CFR 435.911(b)(1) and –
   (1) Is a pregnant woman, as defined in the Medicaid State Plan in accordance with 42 CFR 435.4;
   (2) Is under age 19;
   (3) Is a parent or caretaker relative of a dependent child, as defined in the Medicaid State plan in accordance with 42 CFR 435.4; or
   (4) Is not described in paragraph (c)(1), (2), or (3) of this section, is under age 65 and is not entitled to or enrolled for benefits under Part A of title XVIII of the Social Security Act, or enrolled for benefits under Part B of title XVIII of the Social Security Act.

8. **Because the Appellant and his wife are in the category of individuals described in 45 CFR 155.305(c)(3), parents or caretaker relatives of a dependent child, their eligibility for Medicaid is determined by the Exchange using the applicable Medicaid MAGI-based income standard.**

9. 42 CFR § 435.911(b) provides, in relevant part:

   (1) Except as provided in paragraph (b)(2) of this section, applicable modified adjusted gross income standard means 133 percent of the Federal poverty level or, if higher –
      (i) In the case of parents and other caretaker relatives described in § 435.110(b), the income standard established in accordance with § 435.110(c) or § 435.220(c)

10. 42 CFR § 435.110(b) provides as follows:

    Scope. The agency must provide Medicaid to parents and other caretaker relatives, as defined in § 435.4, and, if living with such parent or other caretaker relative, his or her spouse, whose income is at or below the income standard

established by the agency in the State plan, in accordance with paragraph (c) of this section.

11. **The Department established in its Medicaid State plan that the income standard for parents and other caretaker relatives was equal to 155% of the federal poverty level.**

12. The poverty guidelines applicable to the Appellant's determination of eligibility are published in the Federal Register, Vol 85, No. 12, Friday Jan 17, 2020, pp. 3060-3061.

13. "Household income -- (1) General rule*.* Except as provided in paragraphs (d)(2) and (d)(3) of this section, household 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." 42 CFR § 435.603(d)

14. 42 CFR § 435.603(d)(4) provides as follows:

    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.

15. **The Department established that the figure actually used as the income standard for eligibility determinations for HUSKY A Medicaid for parents or other caretaker relatives was equal to 160% of the Federal poverty level. The use of the 160% figure instead of 155% was to take into account the 5 percentage point deduction required under 42 CFR § 435.603(d)(4).**

16. **Effective March 1, 2020, 160% of the Federal poverty level for a household size of two persons was $2,299.00.**

17. 42 CFR § 435.952 provides, in relevant part, as follows:

    (a) The agency must promptly evaluate information received or obtained by it in accordance with regulations under § 435.940 through § 435.960 of this subpart to determine whether such information may affect the eligibility of an individual or the benefits to which he or she is entitled.
    (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.

….

18. **When the Appellant provided a W-2 form for his wife in response to AHCT's request for verification of her income, AHCT acted reasonably on the information.**

19. **The Appellant's wife's monthly income of $6,272.48 that was indicated by the W-2 form, by itself exceeded the income limit for the program for a household of two persons, which was $2,299.00.**

20. **AHCT was correct when it discontinued the Appellant's household's HUSKY A benefits for the reason that the household's income exceeded the limit.**

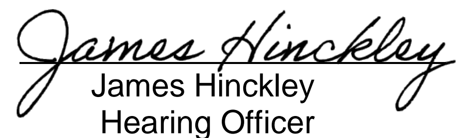
DISCUSSION

The eligibility determination made by AHCT on [redacted] 2020 was based on factually incorrect information. AHCT did not err, however, because the incorrect information was provided by the Appellant himself, and AHCT acted reasonably upon it.

In order to correct his record, the Appellant need only report his correct information to AHCT. AHCT will then make a new determination of eligibility for the Appellant based on the correct information.

DECISION

The Appellant's Appeal is **DENIED**.



James Hinckley
Hearing Officer

cc: Becky Brown
Mike Towers
Sabrina Solis

Advanced Premium Tax Credits (APTC) or Cost Sharing Reduction (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 APTC or CSR.

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.

There is no right to request reconsideration for denials or reductions of APTC or 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.