

Michael Barr, Department's Representative
Scott Zuckerman, Hearing Officer

The Appellant was not present at the administrative hearing.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly discontinued the Appellant's Medicaid/Husky D healthcare insurance.

FINDINGS OF FACT

1. Effective [REDACTED] 2019, the Appellant was approved for Husky D- Low Income Adult Medicaid benefits. (Exhibit 1: Notice of Action, [REDACTED]/2020)
2. On [REDACTED], 2019, the Appellant was admitted to [REDACTED] (the "facility"). (Hearing Summary)
3. Effective [REDACTED], the Appellant began receiving monthly Social Security Disability Income ("SSDI") of \$1930.00 monthly. (Hearing Summary)
4. The Appellant is 62 years old. (Hearing Record)
5. The income limit for Husky D – Low Income Adults Medicaid is \$1,436.58. (Hearing Summary, Department's testimony)
6. On [REDACTED], 2020, the Department became aware of the Appellant's SSDI income and determined he was over the income limit for Husky D Medicaid. (Department's testimony)
7. On [REDACTED], 2020, the Department sent the Appellant a Notice of Action discontinuing the Appellant's Husky D Low Income Adult Medicaid benefits effective [REDACTED] 2020. (Exhibit. 1: Notice of Action, [REDACTED]/2020)
8. The Federal Poverty Limit ("FPL") for a family of one at the time of the discontinuance was \$12,490.00 per year which converted equals \$1,041.00 (\$12,490/12) per month. (Federal Register Volume 84, No. 22 page 3060, [REDACTED] 2019).
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

██████████, 2020. Therefore, this decision is due not later than ██████████, 2020.

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. “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)).
4. Uniform Policy Manual § 7005.05 provides for the discovery of a benefit error. The Department becomes aware of a benefit error in many different ways, including but not limited to the following: Motor Vehicle Match, Bank Match, **Social Security Match**, Other Collateral Contacts, Assistance Unit's Statement, Department's Internal Control, Quality Control Report, Fair Hearing Decision, Court Decision.

The Department correctly updated the case record with the Appellant’s SSDI after becoming aware of the income.

5. 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 included in the individual's household.

The Appellant files as head of household. He is a MAGI household of one person.

6. 42 CFR §435.603(d) 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.

Five percent of the FPL for a family of one is \$624.50 (\$12,490.00 x .05) per year which was converted to \$52.05 (\$624.50/12) per month.

7. 42 CFR § 435.603(e) provides that 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, with the following exceptions-
- (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.

Title 26 of the United States Code ("USC") Section 36B(d)(2)(B) provides that the term "modified adjusted gross income" means adjusted gross income increased by-

- (i) 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.

The Appellant's household's countable MAGI for a household of one based on the reported income at time of review was \$1877.95 (\$1930.00 - \$52.05 per month).

8. 42 CFR § 435.119 provides that Medicaid health coverage is available for individuals age 19 or older and under age 65 at or below 133 percent of the Federal Poverty Limit ("FPL").

(b). 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.
10. 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.

One Hundred thirty three percent of the FPL for a household of one is \$1384.53 (\$1041.00 x 1.33).

The Appellant's household's countable MAGI household income of \$1877.95 per month exceeds the income threshold for one of \$1436.00.

The Appellant is over income for Medicaid/HUSKY D medical insurance.

The Department was correct to discontinue Medicaid/Husky D for the Appellant's household.

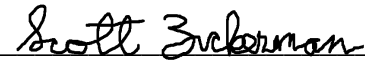
The Department was incorrect to discontinue the Appellant's Medicaid/Husky D benefits effective [REDACTED] 2020, because it did not notify the Appellant at least 10 days before the date of the proposed action. The notice was sent one day prior to the date of the discontinuance on [REDACTED], 2020.

DECISION

The Appellant's appeal is **DENIED in part and GRANTED in part.**

ORDER

1. The Department will reinstate the Appellant's Husky D Medicaid benefits effective [REDACTED] 2020 for the month of [REDACTED] 2020.
2. The Appellant's Husky D Medicaid benefits will be discontinued effective [REDACTED] 2020 as the Appellant is over the MAGI income limit for one.
3. Compliance with this order is due to the undersigned by [REDACTED], 2020 and will consist of the Notice of Action.



Scott Zuckerman
Hearing Officer

Pc: Yescenia Acosta, Operations Manager, DSS, Bridgeport Regional Office
Tim Latifi, Operations Manager, DSS, Bridgeport Regional Office
Michael Barr, Fair Hearing Liaison, DSS, Bridgeport Regional Office

**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.