

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

Client ID # ██████████
Case ID # ██████████
Hearing Request # 165384

NOTICE OF DECISION

PARTY

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

On ██████████, 2020, the Department of Social Services (the "Department") determined that ██████████ (the "Appellant") child was over income for a household of two for the Husky A Medicaid for Children, for ██████████ 2019.

On ██████████ 2020, the Appellant requested a hearing to contest the denial of HUSKY A Medicaid.

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

On ██████████, 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 § 457.113, OLCRAH held an administrative hearing by telephone.

The following individuals participated in the hearing:

██████████, Appellant

Nicole Caldwell, Department's Representative
Marci Ostroski, Hearing Officer

The Hearing record remained open for the Appellant to provide additional information. Exhibits were received by the Appellant and the Department and the record closed [REDACTED] 2020.

STATEMENT OF THE ISSUE

The issue to be decided is whether the Department correctly denied HUSKY A Medicaid for Children for the retroactive month of [REDACTED] 2019.

FINDINGS OF FACT

1. In [REDACTED] of 2019, the Appellant was a household of two. She was the head of household and her son was a tax dependent. (Hearing Record; Appellant's testimony)
2. In [REDACTED] of 2019, the Appellant was employed by [REDACTED] and she received the following gross earned income: \$840.00, pay date [REDACTED]/19, \$840.00, pay date [REDACTED]/19, \$840.00, pay date [REDACTED]/19, \$840.00, pay date [REDACTED]/19. The Appellant's total gross earned income for [REDACTED] 2019 was \$3360.00 ($\$840.00 * 4$). (Ex. J: Wage stubs).
3. In [REDACTED] 2019, the Appellant received child support. She received the following gross unearned income: \$100.00, pay date [REDACTED]/20, \$100.00, pay date [REDACTED]/20, \$100.00, pay date [REDACTED]/20, \$175.00, pay date [REDACTED]/20. The Appellant's total gross child support income for [REDACTED] was \$475.00. (Ex. 9: Bank statements)
4. On [REDACTED], 2019, the Appellant applied for medical coverage for her son through Access Health CT ("AHCT"). The Appellant reported gross monthly income of \$2666.00 and a deduction of \$231.00. AHCT granted HUSKY A Medicaid for Children pending verification of the Appellant's gross monthly income. (Hearing Summary; Department's testimony; Ex. 1: AHCT Case Notes; Ex. 3: Access Health Eligibility Determination; Ex. 4: Access Health Application)
5. On [REDACTED], 2020, the HUSKY A Medicaid was closed out for failure to verify gross income. (Hearing Summary; Department's testimony; Ex. 3: Access Health Eligibility Determination)
6. On [REDACTED], 2020, the Appellant requested retroactive coverage for her son for [REDACTED] 2019, due to an unpaid medical bill. (Hearing Summary; Ex. 6: Department's Case Notes)

7. On [REDACTED] 2020, the Department attempted to contact the Appellant but was unsuccessful. (Ex. 6: Department's Case Notes; Hearing Summary)
8. On [REDACTED], 2020, the Department received another request for retroactive coverage for the Appellant's son for [REDACTED] 2019. (Ex. 6: Department's Case Notes; Hearing Summary)
9. On [REDACTED], 2020, the Department contacted the Appellant by telephone and verbally requested the verification of her gross monthly income for [REDACTED] 2019. (Ex. 6: Department's Case Notes; Hearing Summary)
10. The Department did not receive verification of the Appellant's gross monthly income. The Department did receive copies of the Appellant's bank statements which reflected her net income, and a self-attested statement of income and expenses for [REDACTED] 2019. (Ex. 6: Department's Case Notes; Ex. 9: Bank statements; Department's Testimony)
11. On [REDACTED], 2020, the Department reviewed the Appellant's eligibility for [REDACTED] 2019. The Department determined the Appellant's son did not qualify for HUSKY A Medicaid for Children for [REDACTED] 2019, as a household of two, based on her income information it obtained through the Department of Labor. (Ex. 6: Department's Case Notes)
12. On [REDACTED] 2020, after the administrative hearing, the Appellant provided her wage stubs for [REDACTED] 2019. (Hearing Record; Ex. J: Wage stubs)
13. The Federal Poverty Limit ("FPL") for a household of two equaled \$1410.00 per month effective March 1, 2019. (Federal Register).
14. 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. This decision, therefore, was due no later than [REDACTED], 2020. The record however which was set to close on [REDACTED] 2020, did not close until [REDACTED] 2020, in order to allow the Appellant to provide additional exhibits because this 1-day delay arose from the Appellant's request the decision was not due until [REDACTED] 2020, and is therefore timely. (Hearing Record)

CONCLUSIONS OF LAW

1. Section § 17b-260 of the Connecticut General Statutes ("Conn Gen Stats") 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 Conn Gen Stats § 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. Title 45 CFR § 155.505(d) provides that an appeals process established under this subpart must comply with § 155.110(a).
5. Title 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 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.
6. Title 26 CFR § 1.36B-1(e)(1) provides in general, household income means the sum of-
 - (i) A taxpayer's modified adjusted gross income ("MAGI") (including the modified adjusted gross income of a child for whom an election under section 1(g)(7) is made for the taxable year);
 - (ii) The aggregate modified adjusted gross income of all other individuals who-
 - (A) Are included in the taxpayer's family under paragraph (d) of this section;and

- (B) Are required to file a return of tax imposed by section 1 for the taxable year.
7. Title 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.
 8. Section 36B(d)(2)(B) of the Internal Revenue Code (“the Code”) 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.
 9. 26 U.S.C § 262(a) provides that except as otherwise expressly provided in this chapter, no deduction shall be allowed for personal, living or family expenses.
 10. Title 42 CFR § 435.945(a) provides that except where the law requires other procedures (such as for citizenship and immigration status information), the agency may accept attestation of information needed to determine the eligibility of an individual for Medicaid (either self-attestation by the individual or attestation by an adult who is in the applicant’s household, as defined in §435.603(f) of this part, or family, as defined in section 36B(d)(1) of the Internal Revenue Code, an authorized representative, or, if the individual is a minor or incapacitated, someone acting responsibly for the individual) without requiring further information (including documentation) from the individual.
 11. The State Plan Amendment (“SPA”) # 14-0003MM3 provides that financial eligibility will be based on current monthly household income and family size.
 12. The Appellant’s child support is excluded income, her MAGI equals \$3360.00.

13. Title 42 C.F.R § 435.118(b)(2)(ii) provides that the agency must provide Medicaid to children under age 19 whose income is at or below the income standard established by the agency in its State Plan.
14. Conn Gen Stats § 17b-261(a) provides in part that medical assistance shall be provided to persons under the age of nineteen with household income up to one hundred ninety-six percent of the federal poverty level without an asset limit and to persons under the age of nineteen, who qualify for coverage under Section 1931 of the Social Security Act, with household income not exceeding one hundred ninety-six percent of the federal poverty level without an asset limit, and their parents and needy caretaker relatives, who qualify for coverage under Section 1931 of the Social Security Act, with household income not exceeding one hundred fifty percent of the federal poverty level without an asset limit.
15. 42 CFR § 435.603(d) provides for the application of the household's modified adjusted gross income ("MAGI"). A state must subtract an amount equivalent to 5 percentage points of the Federal poverty level for the applicable family size.
16. Five percent of the FPL for a two-person household equals \$70.50 ($\$1,410.00 \times .05\% = \70.50).
17. The Appellant's countable MAGI equals \$3289.50 ($\$3360.00 - \$70.50 = \3289.50 or \$3290.00 rounded to the nearest dollar)
18. The income limit for a child in a two-person household equals \$2,763.60 ($\$1,410.00 \times 196\% = \$2,763.60$) per month.
19. The Department correctly determined that the Appellant's countable MAGI of \$3289.50 exceeds the allowable limit of \$2763.60 for HUSKY A Medicaid assistance for children.
20. The Department correctly determined the Appellant did not qualify for HUSKY A healthcare coverage for her son for [REDACTED] 2019.

DISCUSSION

The Appellant's gross monthly income places her son over the income limit for the HUSKY A Medicaid program for [REDACTED] 2019. The Appellant provided a list of monthly expenses which in part included rent, groceries, and utility costs. While these costs are associated with her household, they are not allowable deductions under the HUSKY A program. Eligibility is based on gross income and the household is far above the income limit in that respect.

HUSKY A Medicaid eligibility is based on Modified Adjusted Gross Income. The Appellant provided credible testimony and evidence that her son has many complex medical issues and requires continuous care. The HUSKY A Medicaid expansion under the Affordable Care Act does not recognize medical needs in determining income eligibility. Regardless of her child's medical condition, the family is over income for this program.

DECISION

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

Marci Ostroski

Marci Ostroski
Hearing Officer

Pc: Yecenia Acosta, Tim Latifi, Operations Managers, Bridgeport Regional Office
Nicole Caldwell, Hearing Liaison, 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, 165 Capitol Avenue, 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.