

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

██████████, 2021
SIGNATURE CONFIRMATION

CASE # ██████████
CLIENT ID # ██████████
REQUEST# ██████████

NOTICE OF DECISION

PARTY

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

On ██████████ 2021 Access Health Connecticut (“AHCT”), Connecticut’s Health Insurance Exchange, issued a W-1301 “We Updated Your Healthcare Application” letter to ██████████ ██████████ (the “Appellant”) regarding the denial of HUSKY A Medicaid for Parents and Caretakers coverage.

On ██████████ 2021, the Appellant requested an administrative hearing to appeal the denial.

On ██████████ 2021, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative Hearing for ██████████, 2021.

On ██████████ 2021, the Appellant contacted OLCRAH and requested a postponement of the hearing as she was working with AHCT to resolve her issue.

On ██████████, 2021, OLCRAH issued a notice scheduling the administrative hearing for June 14, 2021

On ██████████ 2021, in accordance with sections 17b-60, 17-61 and 4-176e to 4-189 inclusive, of the Connecticut General Statutes, OLCRAH held an Administrative

Hearing. The hearing was held telephonically due to the COVID-19 pandemic with no objection from any party. The following individuals participated in the hearing:

██████████, Appellant
Cathy Davis, AHCT Appeals Coordinator
Joseph Alexander, Administrative Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether AHCT correctly determined that the Appellant was ineligible to participate in the HUSKY A Medicaid for Parents and Caretakers program, based on her non-citizen status.

FINDINGS OF FACT

1. The Appellant's date of birth is ██████████, ██████████ (AHCT's Exhibit 4: Application Information)
2. The Appellant is a non-citizen who has been authorized to work within the United States by the United States Citizenship and Immigration Services ("USCIS"). (AHCT's Exhibit 4: Application Information, Appellant's Exhibit 1: Employment Authorization card)
3. The Appellant resides in Connecticut. (Appellant Testimony)
4. On ██████████, 2021, the Appellant filed an application with AHCT for HUSKY A Medicaid coverage for herself and her two children. (AHCT's Exhibit 4: Application Information)
5. On ██████████, 2021, AHCT reviewed the application and determined the Appellant was not eligible for Husky A Medicaid for Parents and Caretakers coverage due to her non-citizen status. One of the Appellant's children was denied coverage as no coverage was requested and another child was approved for HUSKY A for Children coverage. (AHCT's Exhibit 3: Eligibility Results-Application)
6. The Appellant has never been granted an immigration status of refugee, parolee, asylee or any other special category of immigrant. (Hearing Record)
7. On ██████████, 2021, AHCT issued a W-1301 "We Updated your Healthcare Application" notice to the Appellant notifying her that she had been denied HUSKY A Medicaid for Parents and Caretakers coverage due to her non-citizen status. (AHCT's Exhibit 2: W-1301)

8. The issuance of this decision is timely under the Code of Federal Regulations § 273.15 which requires that a decision must be reached, and the household notified within █ days of receipt of a requested fair hearing. The Appellant requested an administrative hearing on █ 2021. The █, 2021 hearing was rescheduled to █ 2021 at the Appellant's request. With the addition of the █ days due to rescheduling of this hearing, this decision is due no later than █, 2021. The issuance of this decision is therefore timely. (Hearing Record)

CONCLUSIONS OF LAW

1. 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-260.
2. All 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. Conn. Gen. Stat. § 17b-264.
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, Code of Federal Regulations ("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.

6. 42 C.F.R. § 435.406 (a)(2)(i) provides that except as specified in 8 U.S.C. 1612(b)(1) (permitting States an option with respect to coverage of certain qualified non-citizens), qualified non-citizens as described in section 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (8 U.S.C. 1641) (including qualified non-citizens subject to the 5-year bar) who have provided satisfactory documentary evidence of Qualified Non-Citizen status, which status has been verified with the Department of Homeland Security (DHS) under a declaration required by section 1137(d) of the Act that the applicant or beneficiary is a non-citizen in a satisfactory immigration status.
7. Title 8 of the United States Code (“U.S.C.”) § 1641 (b) provides that for the purposes of this chapter, the term “qualified alien” means an alien who, at the time the alien applies for, receives, or attempts to receive a Federal public benefit, is-
 1. An alien who is lawfully admitted for permanent residence under the Immigration and nationality Act [8 U.S.C. 1101 et seq.],
 2. An alien who is granted asylum under section 208 of such Act [8 U.S.C. 1158],
 3. A refugee who is admitted to the United States under section 207 of such Act [8 U.S.C. 1157],
 4. An alien who is paroled into the United States under section 212(d)(5) of such Act [8 U.S.C. 1182(d)(5)] for a period of at least 1 year,
 5. An alien who deportation is being withheld under section 243(h) of such Act [8 U.S.C. 1253] 9as in effect immediately before the effective date of section 307 of division C of Public Law 104-208) or section 241(b)(3) of such Act [8U.S.C. 1231(b)(3)] (as amended by section 305(a) of division C of Public Law 104-208),
 6. An alien who is granted conditional entry pursuant to section 203(a)(7) of such Act [8 U.S.C. 1153(a)(7) as in effect prior to April 1, 1980, or
 7. An alien who is a Cuban and Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980).
8. 8 U.S.C. § 1613 addresses the five-year limited eligibility of qualified aliens for Federal means-tested public benefit. Section (a) notes that notwithstanding any other provision of law and except as provided in subsections (b), (c), and (d) of this section, an alien who is a qualified alien (as defined in section 1641 of this title) and who enters the United States on or after August 22, 1996, is not eligible for any Federal means-tested public benefit for a period of 5 years beginning on the date of the alien’s entry into the United States with a status within the meaning of the term “qualified alien.”
9. The agency must verify the declaration of citizenship or satisfactory immigration status under paragraph (a)(1) or (2) of this section in accordance with § 435.956. 42 C.F.R. § 435.406 (c).

10. 42 C.F.R. § 435.956 Verification of other non-financial information. (a) Citizenship and immigration status. (1)(i) The agency must—(A) Verify citizenship status through the electronic service established in accordance with §435.949 or alternative mechanism authorized in accordance with §435.945(k), if available; and (B) Promptly attempt to resolve any inconsistencies, including typographical or other clerical errors, between information provided by the individual and information from an electronic data source, and resubmit corrected information through such electronic service or alternative mechanism.
11. For the purposes of the exemption from the five-year waiting period described in 8 U.S.C. 1613, the agency must verify that an individual is an honorably discharged veteran or in active military duty status, or the spouse or unmarried dependent child of such person, as described in 8 U.S.C. 1612(b)(2) through the electronic service described in §435.949 or alternative mechanism authorized in accordance with §435.945(k). If the agency is unable to verify such status through such service the agency may accept self-attestation of such status. 42 C.F.R. § 435.956 (a)(3).
12. AHCT has the authority to verify the Appellant's citizenship status for the purpose of determining whether she is subject to a five-year bar to receiving Medicaid coverage.
13. **AHCT correctly determined the Appellant is not a citizen of the United States.**
14. **AHCT correctly determined that as a resident alien who is not otherwise exempt, the Appellant is subject to a five-year bar from participation with respect to the Medicaid Program.**
15. **AHCT correctly determined on [REDACTED], 2021 that the Appellant is ineligible to participate in the Medicaid program, as she had not resided in the United States for a minimum of five years with the status of lawful permanent resident nor does she meet the qualified alien criteria specified in Title 8 of the United States Code ("U.S.C.") § 1641 (b).**
16. **AHCT correctly denied the Appellant's [REDACTED], 2021 application for HUSKY A Medicaid for Parents and Caretakers.**

DECISION

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

Joseph Alexander

Joseph Alexander
Administrative Hearing Officer

CC: Cathy A. Davis, Appeals Coordinator, Access Health Connecticut

RIGHT TO REQUEST RECONSIDERATION

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 §4-1181a (a) of the Connecticut General Statutes.

Reconsideration requests should include specific grounds for the request: for example, indicate what error of fact or law, or what other good cause exists.

Reconsideration requests should be sent to: Department of Social Services, Director, Office of Administrative Hearings and Appeals, 55 Farmington Avenue, Hartford, CT 06105-3725.

RIGHT TO APPEAL

The appellant has the right to appeal this decision to Superior Court with 45 days of the mailing of this decision, or 45 days after the agency denies 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 06105-3725. 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 her 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.