STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL REGULATION AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CONNECTICUT 06105-3730

[redacted] **2021**
Signature Confirmation

Case ID # [redacted]
Client ID # [redacted]
Request ID # 179154

NOTICE OF DECISION

PARTY

[redacted]

PROCEDURAL BACKGROUND

On [redacted] 2021, the Health Insurance Exchange, Access Health CT ("AHCT") sent [redacted] (the "Appellant") a notice of action denying her request for medical assistance.

On [redacted] 2021, the Appellant requested an administrative hearing to contest AHCT's denial of such benefits.

On [redacted] 2021, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing fo [redacted] 2021.

On [redacted] 2021, OLCRAH issued a notice rescheduling the administrative hearing for [redacted] 2021.

On [redacted] 2021, in accordance with sections 17b-60, 17b-61, and 4-176e to 4-184, inclusive of the Connecticut General Statutes, OLCRAH held an administrative hearing by telephonic conferencing.

The following individuals participated in the hearing:

[redacted] Appellant
Interpreter #12765 from Language Line
Sabrina Solis, AHCT's Representative
Christopher Turner, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether the AHCT's denial of the Appellant's Medicaid application due to her citizenship status and the determination the Appellant is eligible to purchase a Qualified Health Plan ("QHP") was correct.

FINDING OF FACTS

1. On [redacted] 2021, AHCT completed a change reporting application through the Health Insurance Exchange for the Appellant's household. (Exhibit 4: Application; Hearing summary)

2. On [redacted] 2021, AHCT sent the Appellant a notice indicating the Appellant was ineligible for Medicaid due to her immigration status but eligible to purchase a QHP. (Exhibit 2: Notice; Exhibit 3: Eligibility determination; Hearing summary)

3. The Appellant's household is comprised of the Appellant and her two children. (Exhibit 3; Exhibit 4; Hearing summary, Appellant's testimony)

4. The Appellant is not a United States citizen nor a legal permanent resident. The Appellant has resided in the United States for less than 5 years. The Appellant has an employment authorization card (I-766) with her application for asylum pending a [redacted] 2021 court hearing. (Record; Appellant's Exhibit A: Immigration paperwork; Appellant's testimony)

5. The Appellant does not plan to file taxes for 2021. (Record; Appellant's testimony)

6. 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] 2021, with the decision due by [redacted] 2021. However, owing to a 27-day extension given, this decision is due no later than [redacted], 2021 since [redacted] 2021 is a [redacted]. (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 provides 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-264 provides for the extension of other public assistance provisions. 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.

The Department has the authority to administer the Medicaid program following the provisions established by the Social Security Amendments of 1965.

2. Title 45 of the 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.

   45 C.F.R. § 155.505(c) provides that Exchange eligibility appeals may be conducted by - (1) 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.

   45 C.F.R. § 155.505(d) provides that an appeals process established under this subpart must comply with § 155.110(a).

   AHCT is the Department's designated state exchange to administer the Health Insurance Exchange program.

   AHCT acted within its authority to review the Appellant's HUSKY A/Medicaid application to determine whether she meets the eligibility requirements of the HUSKY A/Medicaid program.

3. Title 8 of the United States Code § 1641 (b) provides for 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 whose deportation is being withheld under section 243(h) of such Act [8 U.S.C. 1253] (as 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 [8 U.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,

(7) an alien who is a Cuban and Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980), or

(8) an individual who lawfully resides in the United States in accordance with a Compact of Free Association referred to in section 1612(b)(2)(G) of this title, but only with respect to the designated Federal program defined in section 1612(b)(3)(C) of this title (relating to the Medicaid program.

ACHT correctly determined the Appellant does not meet the above criteria.

4. 42 C.F.R. § 435.4 provides Citizenship includes status as a "national of the United States," and includes both citizens of the United States and non-citizen nationals of the United States described in 8 U.S.C. 1101(a)(22).

42 C.F.R. § 436.406 (a) provides the agency must provide Medicaid to otherwise eligible individuals who are - (1) Citizens and nationals of the United States, provided that - (i) The individual has made a declaration of United States citizenship, as defined in §435.4, or an individual described in paragraph (a)(3) of this section; and (ii) For purposes of the declaration and citizenship verification requirements discussed in paragraphs (a)(1)(i) of this section, an individual includes applicants under a section 1115 demonstration (including a family planning demonstration project) for which a State receives Federal financial participation in its expenditures.

42 C.F.R. § 436.406 (a) (2) (i) provides 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.

42 C.F.R. § 435.949 (a) provides the Secretary will establish an electronic service through which States may verify certain information with, or obtain such information from, Federal agencies and other data sources, including SSA, the Department of Treasury, and the Department of Homeland Security.

42 C.F.R. § 435.956 provides for verification of other non-financial information. (a) Citizenship and immigration status 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.

AHCT correctly verified the Appellant's citizenship status through the electronic service established under §435.949.

The Appellant is an individual who is not a citizen of the United States and is considered a non-citizen without qualifying legal status pending the result of her Asylum hearing and, as a result, is ineligible for Medicaid.

5. 45 C.F.R. § 155.305 provides for eligibility standards and indicates: (a) The Exchange must determine an applicant eligible for enrollment in a QHP through the Exchange if she/he meets the following requirements: 1. Citizenship, status as a national, or lawful presence**.** Is a citizen or national of the United States, or is a non-citizen who is lawfully present in the United States, and is reasonably expected to be a citizen, national, or a non-citizen who is lawfully present for the entire period for which enrollment is sought.

AHCT correctly determined the Appellant eligible for a QHP as a non-citizen lawfully present in the United States.

DECISION

The Appellant's appeal is denied.

Christopher Turner
Hearing Officer

Cc: Becky Brown, Health Insurance Exchange, Access Health CT
Mike Towers, Health Insurance Exchange, Access Health CT
Sabrina Solis, AHCT Representative

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 of Advanced Primary Tax Credits (APTC) or Cost Sharing Reduction (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, 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 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.