

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

██████████ 2022
Signature Confirmation

Case ID # ██████████
Client ID # ██████████
Request # 185492

NOTICE OF DECISION
PARTY

██████████
██████████
██████████

PROCEDURAL BACKGROUND

On ██████████ 2021, the Health Insurance Exchange, Access Health CT (“AHCT”) issued a notice of action to ██████████ (the “Appellant”) indicating her Advanced Premium Tax Credit (“APTC”) would be discontinued effective ██████████ 2021.

On ██████████ 2021, the Appellant’s representative requested an administrative hearing to contest the discontinuance of her APTC.

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

On ██████████ 2021, OLCRAH, at AHCT’s request, issued a notice rescheduling the administrative hearing for ██████████ 2022.

On ██████████ 2022, in accordance with sections 17b-60, 17-61 and 4-176e to 4-184 inclusive of the Connecticut General Statutes, Title 45 of the Code of Federal Regulations (“C.F.R.”) §155.505(b) and §155.510 and/or 42 C.F.R. § 457.113, OLCRAH held an administrative hearing by telephone.

The following individuals participated by phone in the hearing:

██████████ Appellant’s Representative
Cathy Davis, AHCT Representative
Christopher Turner, Hearing Officer

STATEMENT OF THE ISSUE

The issue is whether Access Health CT correctly discontinued the Appellant's APTC.

FINDINGS OF FACT

1. On [REDACTED] 2021, AHCT received the Appellant's health care renewal application ([REDACTED]). The Appellant is [REDACTED] years old [REDACTED], widowed, files taxes as single, and is a Lawful Permanent Resident of the United States. The Appellant stipulated she receives approximately \$208.00 monthly or \$2,502.00 yearly pension from [REDACTED] (Hearing record; Representative's testimony)
2. On [REDACTED] 2021, AHCT sent the Appellant a notice discontinuing her APTC effective [REDACTED] 2021, for having an annual income below 100% of the Federal Poverty Level ("FPL"). The notice referenced 26 C.F.R. 1.36B-2 (b) for the basis of the eligibility decision. (Hearing record)
3. One hundred percent (100%) of the FPL for 2021 is \$1,074.00 monthly. (Record)
4. The Appellant has been an APTC recipient since [REDACTED] and has enrolled in a Qualified Health Plan ("QHP") for 2022. (Hearing record; Department's testimony)
5. The Appellant has a bank account of more than \$1,600 and owns property in [REDACTED]. (Representative's testimony)
6. The Appellant is ineligible for HUSKY C medical coverage due to having assets more than the program limit of \$1,600.00 and is ineligible for HUSKY D as she exceeds the age limit under the Husky D program for those applicants age 19 or older and under age 65. (Hearing record)
7. The issuance of this decision is timely under Connecticut General Statutes ("Conn. Gen. Stat.") 17b-61(a), which requires that a decision be issued within 90 days of the request for an administrative hearing. The Appellant's representative requested an administrative hearing on [REDACTED] 2021, with the decision due by [REDACTED], 2022. (Hearing Record)

CONCLUSIONS OF LAW

1. 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 of the Connecticut General Statutes 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.

Conn. Gen Stat. § 17b-264 provides that 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.

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

2. 45 C.F.R. § 155.2 (1) defines lawfully present as a qualified alien as defined in section 431 of the Personal Responsibility and Work Opportunity Act (PRWORA) ([8 U.S.C. 1641](#))

[8 U.S.C. 1641](#) provides that 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.]

The Appellant is deemed to be a lawfully present qualified alien admitted for permanent residency.

3. 45 C.F.R. § 155.20 defines the Exchange as a governmental agency or non-profit entity that meets the applicable standards of this part and makes QHP’s available to qualified individual and/or qualified employers. Unless otherwise identified, this term includes an Exchange serving the small group market for qualified employers, regardless of whether the Exchange is established and operated by a State (including a regional Exchange or subsidiary Exchange) or by HHS (Health and Human Services).

45 C.F.R. § 155.20 defines Advance payments of the premium tax credit as payment of the tax credit authorized by 26 U.S.C. 36B and its implementing regulations, which are provided on an advance basis to an eligible individual enrolled in a QHP (Qualified Health Plan) through an Exchange in accordance with section 1412 of the Affordable Care Act.

4. 45 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 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 Medicaid case to determine whether she meets the APTC eligibility requirements.

5. 45 C.F.R. § 155.305 (f) (1) provides, in general, the Exchange must determine a tax filer eligible for advance payments of the premium tax credit if the Exchange determines that – (i) He or she is expected to have a household income, as defined in [26 CFR 1.36B-1\(e\)](#), of greater than or equal to 100 percent but not more than 400 percent of the FPL for the benefit year for which coverage is requested; and (ii) One or more applicants for whom the tax filer expects to claim a personal exemption deduction on his or her tax return for the benefit year, including the tax filer and his or her spouse.
6. 45 C.F.R. § 155.305 (f) (2) details the special rule for non-citizens who are lawfully present and who are ineligible for Medicaid by reason of immigration status. The Exchange must determine a tax filer eligible for advance payments of the premium tax credit if the Exchange determines that – (ii) He or she is expected to have a household income, as defined in [26 CFR 1.36B-1\(e\)](#) of less than 100 percent of the FPL for the benefit year for which coverage is requested; and (iii) One or more applicants for whom the tax filer expects to claim a personal exemption deduction on his or her tax return for the benefit year, including the tax filer and his or her spouse, is a non-citizen who is lawfully present and ineligible for Medicaid by reason of immigration status, in accordance with [26 CFR 1.36B-2\(b\)\(5\)](#).

26 C.F.R. 1.36B-2(b)(5) provides for Individuals that are lawfully present. If a taxpayer's household income is less than 100 percent of the Federal poverty line for the taxpayer's family size and the taxpayer or a member of the taxpayer's family is an alien lawfully present in the United States, the taxpayer is treated as an applicable

taxpayer if - (i) The lawfully present taxpayer or family member is not eligible for the Medicaid program; and (ii) The taxpayer would be an applicable taxpayer if the taxpayer's household income for the taxable year was between 100 and 400 percent of the Federal poverty line for the taxpayer's family size.

26 C.F.R. 1.36B-2(b)(6) details the special rule for taxpayers *with household income* below 100 percent of the Federal poverty line for the taxable year -

(i) In general. A taxpayer (other than a taxpayer described in [paragraph \(b\)\(5\)](#) of this section) whose household income for a taxable year is less than 100 percent of the Federal poverty line for the taxpayer's family size is treated as an applicable taxpayer for the taxable year if -

(A) The taxpayer or a family member enrolls in a qualified health plan through an Exchange for one or more months during the taxable year;

(B) An Exchange estimates at the time of enrollment that the taxpayer's household income will be at least 100 percent but not more than 400 percent of the Federal poverty line for the taxable year;

(C) Advance credit payments are authorized and paid for one or more months during the taxable year; and

(D) The taxpayer would be an applicable taxpayer if the taxpayer's household income for the taxable year was at least 100 but not more than 400 percent of the Federal poverty line for the taxpayer's family size.

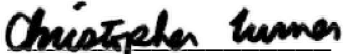
The Appellant is not considered ineligible for Medicaid due to her immigration status. Although the Appellant's income is less than 100% of the FPL and she has enrolled in a qualified health plan for 2022, the Appellant does not meet the criteria detailed in 45 C.F.R. § 155.305 (f) (2).

DISCUSSION

This decision does not address the Department's previous eligibility determinations.

DECISION

The Appellant's appeal is denied.


Christopher Turner
Hearings Officer

Cc: Becky Brown, Health Insurance Exchange Access CT
Mike Towers, Health Insurance Exchange Access CT
Cathy Davis, Health Insurance Exchange Access CT

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 APTC or CSR.