

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

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

Case ID # ██████████  
Client ID # ██████████  
Request ID # 189586

NOTICE OF DECISION

PARTY

██  
██  
██

PROCEDURAL BACKGROUND

On ██████████ 2022, the Health Insurance Exchange, Access Health CT (“AHCT”) sent ██████████ (the “Appellant”) a notice of action denying her request for medical assistance.

On ██████████ 2022, the Appellant’s representative requested an administrative hearing to contest AHCT’s denial of such benefits.

On ██████████ 2022, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ██████████ 2022.

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

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

On ██████████ 2022, in accordance with sections 17b-60, 17b-264 and 4-176e to 4-184, inclusive, of the Connecticut General Statutes, (Medicaid/HUSKY A, D), Title 45 Code of Federal Regulations (“C.F.R.”) §§ 155.510 (APTC/CSR) and/or 42 C.F.R. § 457.1130 (HUSKY B), OLCRAH held an administrative hearing by telephone.

The following individuals participated in the hearing:

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

The Appellant did not participate in the conference.

### **STATEMENT OF THE ISSUE**

The issue is whether AHCT's denial of the Appellant's Medicaid application due to her citizenship status was correct.

### **FINDING OF FACTS**

1. On ██████████ 2022, AHCT completed a change reporting application through the Health Insurance Exchange for the Appellant. (Exhibit 4: Application)
2. On ██████████ 2022, AHCT sent the Appellant a notice indicating she was ineligible for Medicaid due to her immigration status. (Exhibit 2: Notice; Exhibit 3: Eligibility determination)
3. The Appellant is considered a household of one. (Exhibit 4; Rep's testimony; Record)
4. The Appellant has been allowed into the United States as a Cuban entrant refugee as of ██████████ 2021. (Record; Testimony)
5. The Appellant is a current recipient of Refugee Cash Assistance and the Federal Supplemental Nutrition Assistance Program as administered by the Department effective ██████████ 2021. (Appellant's Exhibit A: ██████████ 2022, Grant notice)
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 ██████████ 2022, with the decision due by ██████████ 2022. However, the time for rendering a final decision shall be extended whenever the aggrieved person requests or agrees to an extension, or when the commissioner documents an administrative or other extenuating circumstance beyond the commissioner's control. In the present case, the Appellant was granted two postponements that lengthened the due date by █ days, with this decision due no later than ██████████ 2022.

### **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. “The department’s Uniform Policy Manual (“UPM”) is the equivalent of 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)).
3. 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 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 D/Medicaid application to determine whether she meets the eligibility requirements of the HUSKY D/Medicaid program.**

4. UPM § 8010.20 (B) (1) provides that recipients of Refugee Cash Assistance are eligible for Refugee Medical Assistance (or the equivalent).

**The Appellant is a current recipient of Refugee Cash Assistance.**

5. 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 incorrectly determined the Appellant did not meet the above provisions.**

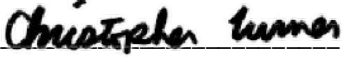
**The Appellant is a non-citizen with refugee status who was admitted to the United States under section 207 of such Act and is otherwise eligible for Medicaid.**

**DECISION**

The Appellant's appeal is granted.

**ORDER**

The Department (AHCT) is instructed to grant the Appellant HUSKY D/LIA coverage effective [REDACTED] 2021. Proof of compliance is due no later than [REDACTED] 2022 and will consist of the Appellant's grant notice.

  
Christopher Turner  
Hearing Officer

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

### **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, law, and 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 the Department of Social Services, Director, Office of Legal Counsel, Regulations, and Administrative Hearings, 55 Farmington Avenue, Hartford, CT 06105.

### **RIGHT TO APPEAL**

The appellant has the right to appeal this decision to the 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 if 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 to 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 under §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.