

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

■■■ ■■ 2022
Signature Confirmation

Client ID ■■■■■■■■
Case ID ■■■■■■■■
Request # 189646

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ■■■■■ ■■ 2022, the Health Insurance Exchange, Access Health CT (“AHCT”) sent ■■■■■ ■■■■■ (the “Appellant”) a Notice of Action (“NOA”) informing her she does not qualify for healthcare coverage under the Husky Health program.

On ■■■■■ ■■ 2022, the Appellant requested an administrative hearing to contest the AHCT’s decision to discontinue her medical coverage under the Husky D program.

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

On ■■■■■ ■■ 2022, in accordance with sections 17b-60, 17b-264 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, Chapter 45 Code of Federal Regulations (“CFR”) §§ 155.505(b) and 155.510 and/or 42 CFR § 457.1130, OLCRAH held an administrative hearing by telephone.

The following individuals called in for the hearing:

■■■■■■■■■■ ■■■■■■■■ Appellant
Cathy Davis, AHCT Representative
Lisa Nyren, Fair Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether AHCT correctly discontinued the Appellant's healthcare coverage under the Medicaid/Husky D program effective [REDACTED] [REDACTED] 2022.

FINDINGS OF FACT

1. In [REDACTED] 2017, the Appellant entered the United States on a Category B2 Visitor Visa from the country of [REDACTED] (Appellant's Testimony)
2. On [REDACTED] [REDACTED] 2017, the Appellant filed an application for Political Asylum with United State Citizenship and Immigration Services ("USCIS"). The Appellant has not received a decision from USCIS regarding her application for political asylum. Her application remains pending. (Appellant's Testimony)
3. The Appellant has a valid I-766 Employment Authorization Document ("EAD") which allows her to work in the US. The Appellant's current EAD expires on [REDACTED] [REDACTED] 2022. Renewals are completed every two years. The Appellant has not received her new EAD to date. (Appellant's Testimony and Exhibit 1: Application Information)
4. The USCIS has not granted the Appellant any of the following immigration statuses: legal permanent residency, conditional entrant, parolee, battered person, asylee, refugee, Cuban/Haitian entrant, Amerasian immigrant, Veteran, Spouse of a Veteran, victim of human trafficking, Iraqi/Afghan Special Immigrant. (Appellant's Testimony)
5. AHCT is the Department of Social Services contractor which administers the Husky D program. (Hearing Record)
6. For the period [REDACTED] [REDACTED] 2019 through [REDACTED] [REDACTED] 2020, the Appellant received medical coverage under the Husky D program as administered by AHCT. (Exhibit A: Verification of Benefits)
7. For the period [REDACTED] [REDACTED] 2020 through [REDACTED] [REDACTED] 2022, the Appellant received medical coverage under the Husky D program as administered by AHCT. (Exhibit A: Verification of Benefits)
8. On [REDACTED] [REDACTED] 2022, the Appellant contacted AHCT to report a change. AHCT completed an online change reporting application ID [REDACTED] with the Appellant updating income and immigration status. (Exhibit 1: Application Information, Appellant's Testimony and AHCT Representative's Testimony)
9. Immigration status is verified electronically with the Federal Hub. Based on the information from the Federal Hub, AHCT determined the Appellant ineligible for medical coverage through Husky D because she does not meet the criteria as a

qualifying non-citizen under Husky D. (Hearing Record)

10. On ██████ 2022, AHCT issued a notice to the Appellant. The notice states: “Available data from the Federal Government indicates that you [the Appellant] are not a U.S. Citizen or do not have an eligible immigration status for applying for healthcare coverage through the Exchange.” (Exhibit 3: Notice of Action)
11. 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. Therefore, this decision is due not later than ██████ 2022.

CONCLUSIONS OF LAW

1. Connecticut General Statutes § 17b-260 provides as follows:

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. State statute provides as follows:

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.

Conn. Gen. Stat. § 17b-264

3. Title 45 Section 155.110(a) of the Code of Federal Regulations (“C.F.R”) provides as follows:

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 qualification of paragraph (a)(1) of this section.

AHCT is the State of Connecticut's health insurance exchange where consumers can enroll in affordable healthcare plans which include Husky D.

4. Federal regulation provides as follows:

Exchange eligibility appeals may be conducted by a State Exchange appeals entity or an eligible entity described in paragraph (d) or 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(c)(1)

“An appeals process established under this subpart must comply with § 155.110(a).” 45 C.F.R. § 155.505(d)

5. Federal regulation provides as follows:

The agency must provide Medicaid to otherwise eligible individuals who are –

- i. 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 an non-citizen in a satisfactory immigration status.
- ii. The eligibility of qualified non-citizens who are subject to the 5-year bar in 8 U.S.C. 1613 is limited to the benefits described in paragraph (b) of this section.

42 C.F.R. § 435.406(a)(2)

6. Title 8 Section 1641(b) of the United States Code (“U.S.C.”) provides as follows:

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 whose 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), 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)(3)(C) of this title (relating to the Medicaid program).
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)

“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 CFR § 435.949(a)

“To the extent that information related to eligibility for Medicaid is available through the electronic service established by the Secretary, States must obtain the information through such service subject to the requires in subpart C of part 433 of this chapter, except as provided in § 435.945(k) of this subpart.” 42 CFR § 435.949(b)

10. AHCT correctly determined the Appellant does not meet the qualified non-citizen criteria under federal law upon receipt of information from the Federal Hub.

AHCT correctly determined the Appellant does not qualify for medical

coverage under the Husky D program because she is not considered a qualified non-citizen.

AHCT correctly discontinued the Appellant's medical coverage under the Husky D program effective [REDACTED] 2022.

11. Federal regulation provides as follows:

Consistent with [§§ 431.206](#) through [431.214 of this chapter](#), the agency must provide all applicants and beneficiaries with timely and adequate written notice of any decision affecting their eligibility, including an approval, denial, termination or suspension of eligibility, or a denial or change in benefits and services. Such notice must –

1. Be written in plain language;
2. Be accessible to persons who are limited English proficient and individuals with disabilities, consistent with § 435.905(b), and
3. If provided in electronic format, comply with § 435.918(b)

On [REDACTED] 2022, AHCT correctly issued the Appellant a notice of action informing her of the termination of medical coverage under the Husky D program for the reasons “ you are not a U.S. Citizen or do not have an eligible immigration status for applying for healthcare coverage through the Exchange.

DECISION

The Appellant's appeal is DENIED.

Lisa A. Nyren

Lisa A. Nyren
Fair Hearing Officer

CC: Becky Brown, AHCT
Mike Towers, AHCT
Cathy Davis, AHCT

**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.