STATE OF CONNECTICUT

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

[redacted] 2022
Signature Confirmation

Client ID [redacted]
Case ID [redacted]
Request # 189652

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 ("NOA) stating [redacted] (the "child") does not have insurance.

On [redacted] 2022, the Appellant requested an administrative hearing to contest the AHCT's failure to activate healthcare coverage under the Husky A-Children program for the child for the period [redacted] 2021 through [redacted] 2022.

On [redacted] 2022, the Office of Legal Counsel, Regulations, and Administrative Hearings ("OLCRAH") issued a notice scheduling the administrative hearing for [redacted] 2022.

On [redacted] 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:

[redacted] Appellant
Debra Henry, AHCT Representative
Lisa Nyren, Fair Hearing Officer

The record remained open for the submission of additional evidence from AHCT and the Appellant. Both AHCT and the Appellant submitted additional evidence. On [redacted] 2022, the record closed.

STATEMENT OF THE ISSUE

The issue to be decided is whether AHCT correctly determined the effective date of the child's medical coverage under the Husky A-Children program as [redacted] 2022.

FINDINGS OF FACT

1. The Appellant is age [redacted] and married to [redacted] ("spouse"), age [redacted] (Appellant's Testimony)

2. The Appellant and spouse are the parents of [redacted] (the "child"), age [redacted] (Appellant's Testimony)

3. In [redacted] 2021, the Appellant, the spouse, and the child returned to the United States after living abroad for several years. (Appellant's Testimony)

4. [redacted] ("grandmother") is the mother of the Appellant and the child's grandmother. (Appellant's Testimony)

5. [redacted] ('grandfather") is the father of the Appellant and the child's grandfather. (Appellant's Testimony)

6. The Appellant, the spouse, and the child live with the grandmother and grandfather in [redacted] Connecticut. The grandmother is age [redacted] and not pregnant. (Appellant's Testimony)

7. On [redacted] 2021, the Appellant contacted AHCT via telephone requesting medical coverage for herself and the child. The Appellant did not request coverage for the spouse. At the time of the application, the Appellant was pregnant with a due date of [redacted] 2022. The Appellant later miscarried. (Appellant's Testimony and Exhibit 3: Application [redacted])

8. On [redacted] 2021, AHCT completed an application for medical coverage for the grandmother and child, rather than the Appellant and child. The application listed the grandmother as pregnant with a due date as [redacted] 2022 and the child as her daughter rather than granddaughter. (Exhibit 3: Application [redacted])

9. On [redacted] 2021, AHCT determined the grandmother as qualified under the Husky A – Pregnancy program and the child as qualified under the Husky A – Children program and issued a Notice of Action ("NOA") to the grandmother. The notice listed coverage for the grandmother as Husky A-Pregnancy beginning [redacted] 2021 ending [redacted] 2022 and coverage for the child as Husky A-Children beginning [redacted] 2021 ending [redacted] 2021. (Exhibit 2: Eligibility Determination and Exhibit 4: Notice of Action)

10. On [redacted] 2021, the Appellant notified AHCT of the error in medical

coverage for the grandmother rather than herself. AHCT submitted a new application for medical coverage for the Appellant only and listed the child and the spouse as not requesting coverage on the application. AHCT determined the Appellant eligible for medical coverage under the Husky A – Pregnancy program beginning [redacted] 2021. (Exhibit 5: Notice of Action, Exhibit 9: Application [redacted], and Appellant's Testimony)

11. On [redacted] 2021, AHCT issued the Appellant a Notice of Action. The notice listed the Appellant's [redacted] 2021 application results as: the Appellant qualified for Husky A-Pregnancy medical coverage beginning [redacted] 2021 with a coverage end date of [redacted] 2022. The notice lists the spouse and the child as not requesting health care coverage. (Exhibit 5: Notice of Action)

12. On [redacted] 2021, the Appellant contacted AHCT by telephone to report a change after she miscarried. (Exhibit 1: Notice of Action and Appellant's Testimony)

13. On [redacted] 2021, AHCT transferred the Appellant's medical coverage from Husky A – Pregnancy to Husky A – Parents and Caretakers beginning [redacted] 2021 and ending [redacted] 2022 and issued a Notice of Action to the Appellant. The Notice of Action stated, "We updated your health care application on [redacted] 2021. This letter has the results of your updated application and lists any follow-up steps that you may need to take." The notice of action informed the Appellant she selected medical coverage under Husky A – Parents and Caretakers beginning [redacted] 2021 but may keep her current health coverage until [redacted] 2021. The notice lists the child as qualified for Husky A-Children, but does not list a coverage start date, rather listing "You have not made a selection. This person doesn't have health coverage." (Exhibit 1: Notice of Action)

14. No action is needed by an applicant when AHCT determines an individual eligible for medical coverage under the Husky programs. (AHCT Representative's Testimony)

15. On [redacted] 2021, the Appellant sought assistance from the Department of Social Services ("DSS") to resolve the ongoing Husky A-Children eligibility issue for the child with AHCT. DSS referred the Appellant back to AHCT. (Exhibit 12: Impact Notes and Appellant's Testimony)

16. The Appellant continued to work with AHCT requesting medical coverage for the child beginning [redacted] 2021. (Appellant's Testimony)

17. On [redacted] 2021, the Appellant contacted AHCT to report receipt of unpaid medical bills to AHCT for the child. AHCT determined the child eligible for Husky A – Children medical coverage under the Appellant beginning [redacted] 2022. Medical bills remain unpaid for the period [redacted] 2021 through [redacted] 2022 for the child. (Appellant's Testimony, Exhibit A: Medical Bill, and Exhibit 7:

Notice of Action)

18. AHCT escalated the issue to DSS. AHCT has not received a response from DSS. (AHCT Representative's Testimony)

19. The Appellant seeks medical coverage for the child beginning [redacted] 2021. (Appellant's Testimony)

20. 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] 2022. However, the close of the hearing record, which had been anticipated to close on [redacted] 2022, did not close for the admission of evidence until [redacted] 2022 at the Appellant's request. Because this [redacted]-day delay in the close of the hearing record arose from the Appellant's request, this final decision was not due until [redacted] 2022, and is therefore timely.

CONCLUSIONS OF LAW

1. Section 17b-260 of the Connecticut General Statutes ("Conn. Gen. Stat.") 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 includes medical coverage under Husky A programs.

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)

On [redacted] 2022, the Appellant correctly submitted her request for an administrative hearing with AHCT.

5. "The agency must afford an individual wishing to do so the opportunity to apply for Medicaid without delay." 42 C.F.R. § 435.906

"The Exchange must accept applications from individuals in the form and manner specified in § 155.405." 45 C.F.R. § 155.310(a)(1)

"The Exchange must provide the tools to file an application by telephone through a call center." 45 C.F.R. § 155.405(c)(2)(ii)

On [redacted] 2021, the Appellant correctly submitted an application for

medical coverage for herself and the child to AHCT by telephone.

6. Federal regulation provides as follows:

   In accordance with section 1413(b)(1)(A) of the Affordable Care Act, the agency must accept an application from the applicant, an adult who is in the applicant's household, as defined in § 435.603(f), or family, as defined in section 36B(d)(1) of the Code, an authorized representative, or if the applicant is a minor or incapacitated, someone acting responsibly for the applicant, and any documentation required to establish eligibility- by telephone.

   42 C.F.R. § 435.907(a)(2)

   Federal regulation provides as follows:

   In the case of an individual who expects to file a tax return for the taxable year in which an initial determination or renewal of eligibility is being made, and who does not expect to be claimed as a tax dependent by another taxpayer, the household consists of the taxpayer and, subject to paragraph (f)(5) of this section, all persons whom such individual expects to claim as a tax dependent.

   42 C.F.R. § 435.603(f)(1)

   Federal regulation provides as follows:

   In the case of a married couple living together, each spouse will be included in the household of the other spouse, regardless of whether they expect to file a joint tax return under section 6013 of the Code or whether one spouse expects to be claimed as a tax dependent by the other spouse.

   42 C.F.R. § 435.603(f)(4)

   On [redacted] 2021, AHCT incorrectly determined the child's household included the grandmother. The correct household consists of the Appellant, the child, and the spouse.

7. Federal regulation provides as follows:

   The Exchange must verify the information in in paragraph (c)(2)(i)(A) of this section by accepting an applicant's attestation without further verification, unless the Exchange finds that an applicant's attestation to the individuals that comprise his or her household for Medicaid and CHIP is not reasonably compatible with other information provided by the application filer for the applicant or in the records of the Exchange, in which case the Exchange must utilize data obtained through electronic data sources to verify the attestation. If such data sources are unavailable or information in such data sources is not reasonably compatible with the applicant's attestation, the Exchange must request additional

documentation to support the attestation within the procedures specified in 42 CFR 435.952.

45 C.F.R. § 155.320(c)(2)(i)(B)

Federal regulation provides as follows:

For purposes of this subpart, the Exchange must consider information obtained through electronic data sources, other information provided by the applicant, or other information in the records of the Exchange to be reasonably compatible with an applicant's attestation if the difference or discrepancy does not impact the eligibility of the applicant, including the amount of advance payments of the premium tax credit or category of cost-sharing reductions.

45 C.F.R.§ 155.300(d)

8. Federal regulation provides in pertinent part:

The Exchange must enter into agreements with agencies administering Medicaid, CHIP, and the BHP, if a BHP is operating in the service area of the Exchange, as are necessary to fulfill the requirements of this subpart and provide copies of any such agreements to HHS upon request. Such agreements must income a clear delineation of the responsibilities of each agency to –

1. Minimize burden on individuals;
2. Ensure prompt determinations of eligibility and enrollment in the appropriate program without undue delay, based on the date of the application is submitted to or redetermination is initiated by the Exchange or the agency administering Medicaid, CHIP, or the BHP.

45 C.F.R. § 155.345(a)

"The agency must provide assistance to any individual seeking help with the application or renewal process in person, over the telephone, and online, and in a manner that is accessible to individuals with disabilities and those who are limited English proficient, consistent with § 435.905(b) of this subpart." 42 C.F.R. § 435.908(a)

"The agency must furnish Medicaid promptly to beneficiaries without any delay caused by the agency's administrative procedures." 42 CFR § 435.930(a)

On [redacted] 2021, AHCT incorrectly determined the Appellant requested medical coverage for the grandmother and child resulting in AHCT incorrectly granting Husky A – Pregnancy coverage for the [redacted] ([redacted] year old grandmother rather than medical coverage for the Appellant who was pregnant. Although AHCT granted Husky A – Children

for the child, AHCT listed the grandmother as the mother of the child which resulted in an incorrect household composition and additional obstacles for the Appellant to navigate to correct the error. Although it may not be impossible for a woman in her [redacted]'s to become pregnant, it is reasonable to believe the probability of such an event as extremely low and further review of the application was warranted by AHCT.

On [redacted] 2021, AHCT failed to correct the medical coverage discrepancies after speaking with the Appellant. AHCT incorrectly continued medical coverage for the child under the grandmother's household rather than under the Appellant's household. However, AHCT correctly approved medical coverage under the Husky A – Pregnancy program for the Appellant beginning [redacted] 2021.

On [redacted] 2021, AHCT again failed to correct the discrepancy after speaking with the Appellant, continuing medical coverage for the child under the grandmother's household.

AHCT failed to minimize the burden of the application process and failed to ensure a prompt determination of eligibility and enrollment for the child under the Husky A-Children program. AHCT incorrectly delayed the application process over [redacted] months which has resulted in the loss of coverage for the child and the scheduling of an administrative hearing.

AHCT incorrectly determined the effective date of medical coverage under the Husky A-Children Program as [redacted] 2022. The correct date is [redacted] 2021.

DECISION

The Appellant's appeal is granted.

ORDER

1. AHCT must grant medical coverage under the Husky A-Children program effective [redacted] 2021 for the child under the Appellant's household effectively removing the child from the grandmother's household.

2. Compliance is due [redacted] 2022.

Lisa A. Nyren
Lisa A. Nyren
Fair Hearing Officer

CC: Becky Brown, AHCT
Mike Towers, AHCT
Debra Henry, 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 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.