

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

■■■■ 2024
Signature Confirmation

Client ID ■■■■
Case ID ■■■■
Request # 233557

NOTICE OF DECISION

PARTY

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PROCEDURAL BACKGROUND

On ■■■■ ■■ 2023, the Health Insurance Exchange, Access Health CT (“AHCT”), sent ■■■■ ■■■■ (the “Appellant”) a Notice of Action (“NOA) denying her renewal application for Medicaid Husky A healthcare coverage (“Husky A”) for ■■■■ ■■■■ ■■■■ (“minor child”) her son.

On ■■■■ ■■ 2024, the Appellant requested an administrative hearing to contest the AHCT’s decision to deny such benefits.

On ■■■■ ■■ 2024, the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) issued a notice scheduling the administrative hearing for ■■■■ ■■ 2024.

On ■■■■ ■■ 2024, 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 (“C.F.R.”) §§ 155.505(b) and 155.510 and/or 42 C.F.R. § 457.1130, OLCRAH held an administrative hearing by teleconference.

The following individuals called in for the hearing:

■■■■ ■■■■ Appellant
Debra Henry, AHCT Representative
Lisa Nyren, Fair Hearing Officer

STATEMENT OF THE ISSUE

The issue to be decided is whether AHCT correctly denied the Appellant's renewal application for healthcare coverage under the Husky A program for her minor child effective [REDACTED] 2024.

FINDINGS OF FACT

1. On [REDACTED] 2023, the Appellant submitted a renewal application via telephone for medical coverage under the Husky A program to AHCT requesting continued coverage for the minor child. (Exhibit 1: Application and Exhibit 3: Eligibility and Enrollment Notice)
2. The minor child is age [REDACTED] and diagnosed with Autism Spectrum Disorder ("ASD"). (Appellant Testimony)
3. The Appellant lives with the minor child and the minor child's father. (Appellant's Testimony)
4. The Appellant claims the minor child as a tax dependent on her tax return filed annually. The Appellant files her taxes separate from the minor child's father. (Appellant's Testimony and Exhibit 1: Application)
5. The Appellant is employed full time and earns \$4,240.00 gross wages per month. (Stipulated)
6. The Appellant pays \$46.00 per month student loan interest. (Stipulated)
7. The Appellant pays \$52.00 per month to her Health Savings Account ("HSA"). (Appellant Testimony)
8. The minor child's father is not working because he is a student. (Appellant Testimony)
9. The Husky A income limit for a household of two is \$3,304.00 per month. (AHCT Representative's Testimony)
10. AHCT determined the minor child ineligible for Husky A because the household's income of \$4,240.00 exceeds the Husky A income limit of \$3,304.00 for a household of two. (Hearing Record)
11. AHCT determined the minor child eligible for medical coverage under the Husky B – Band 2 program beginning [REDACTED] 2024. (Exhibit 3: Eligibility and Enrollment Notice and AHCT Representative Testimony)

12. On [REDACTED] [REDACTED] 2023, AHCT issued a notice to the Appellant. The notice stated: "To qualify for Husky B the children in the household were first considered for Husky A and found over the income limit for that program." The minor child qualified for Husky B – Band 2 beginning [REDACTED] [REDACTED] 2024. (Exhibit 3: Eligibility and Enrollment Notice)
13. The Appellant seeks medical coverage under the Husky A program because it covers more medical services for the minor child and less out of pocket medical costs. (Appellant Testimony)
14. 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] [REDACTED] 2024. However, the hearing, which was originally scheduled for [REDACTED] [REDACTED] 2024, was rescheduled at the request of the Appellant, which caused a [REDACTED]-day delay. Because this [REDACTED]-day delay resulted from the Appellant's request, this decision is not due until [REDACTED] [REDACTED] 2024, and therefore timely.

CONCLUSIONS OF LAW

1. Connecticut General Statute ("Conn. Gen. Stats.") § 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. 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 qualifications of paragraph (a)(1) of this section.

“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)

AHCT is Connecticut’s Exchange, also referred to as the Health Insurance Marketplace, that assists individuals and families enroll in affordable healthcare plans, including Medicaid under the Husky A program, and authorized to participate in the appeals process.

3. 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. Stats. § 17b-264

4. Federal regulation provides as follows:

The agency must provide Medicaid to children under age 19 whose household income is at or below the income standard established by the agency in its State plan, in accordance with paragraph (c) of this section.

42 C.F.R. § 435.118(b)

Federal regulation provides as follows:

The maximum income standard for each of the age groups of infants under age 1, children age 1 through age 5, and children age 6 through age 18 is the higher of-

- i. 133 percent FPL
- ii. The highest effective income level for each age group in effect under the Medicaid State plan for coverage under the applicable sections of the Act listed at paragraph (a) of this section or waiver of the State plan covering such age group as of March 23, 2010 or December 31, 2013, if higher, converted to a MAGI-equivalent standard in accordance with guidance

- issued by the Secretary under section 1902(e)(14)(A) and (E) of the Act;
or
- iii. For infants under age 1, 185 percent FPL.

42 C.F.R. § 435.118(c)(2)

5. State statute provides as follows:

Medical assistance shall be provided for any otherwise eligible person (1) whose income, including any available support from legally liable relatives and the income of the person's spouse or dependent child, is not more than one hundred forty-three per cent, pending approval of a federal waiver applied for pursuant to subsection (e) of this section, of the benefit amount paid to a person with no income under the temporary family assistance program, and (2) if such person is an institutionalized individual as defined in Section 1917 of the Social Security Act, 42 USC 1396p(h)(3), and has not made an assignment or transfer or other disposition of property for less than fair market value for the purpose of establishing eligibility for benefits or assistance under this section. Any such disposition shall be treated in accordance with Section 1917(c) of the Social Security Act, 42 USC 1396p(c). Any disposition of property made on behalf of an applicant or recipient or the spouse of an applicant or recipient by a guardian, conservator, person authorized to make such disposition pursuant to a power of attorney or other person so authorized by law shall be attributed to such applicant, recipient or spouse. A disposition of property ordered by a court shall be evaluated in accordance with the standards applied to any other such disposition for the purpose of determining eligibility. The commissioner shall establish the standards for eligibility for medical assistance at one hundred forty-three per cent of the benefit amount paid to a household of equal size with no income under the temporary family assistance program. In determining eligibility, the commissioner shall not consider as income Aid and Attendance pension benefits granted to a veteran, as defined in section 27-103, or the surviving spouse of such veteran. Except as provided in section 17b-277 and section 17b-292, the medical assistance program shall provide coverage to persons under the age of nineteen with household income up to one hundred ninety-six per cent of the federal poverty level without an asset limit and to persons under the age of nineteen, who qualify for coverage under Section 1931 of the Social Security Act, with household income not exceeding one hundred ninety-six per cent of the federal poverty level without an asset limit, and their parents and needy caretaker relatives, who qualify for coverage under Section 1931 of the Social Security Act, with household income not exceeding one hundred fifty-five per cent of the federal poverty level without an asset limit. Such levels shall be based on the regional differences in such benefit amount, if applicable, unless such levels based on regional differences are not in conformance with federal law. Any income in excess of the applicable amounts shall be applied as may be required by said federal law, and assistance shall be granted for the balance of the cost of authorized medical assistance. The Commissioner of Social Services shall provide applicants for

assistance under this section, at the time of application, with a written statement advising them of (A) the effect of an assignment or transfer or other disposition of property on eligibility for benefits or assistance, (B) the effect that having income that exceeds the limits prescribed in this subsection will have with respect to program eligibility, and (C) the availability of, and eligibility for, services provided by the Connecticut Home Visiting System, established pursuant to section 17b-751b. For coverage dates on or after January 1, 2014, the department shall use the modified adjusted gross income financial eligibility rules set forth in Section 1902(e)(14) of the Social Security Act and the implementing regulations to determine eligibility for HUSKY A, HUSKY B and HUSKY D applicants, as defined in section 17b-290. Persons who are determined ineligible for assistance pursuant to this section shall be provided a written statement notifying such persons of their ineligibility and advising such persons of their potential eligibility for one of the other insurance affordability programs as defined in 42 CFR 435.4.

Conn. Gen. Stat. § 17b-261(a)

“Husky A means Medicaid provided to children, caretaker relatives and pregnant and postpartum women pursuant to section 17b-261 or 17b-277.” Conn. Gen. Stat. § 17b-290(13)

“Husky Health means the combined Husky A, Husky B, Husky C and Husky D programs, that provide medical coverage to eligible children, parents, relative caregivers, persons age sixty-five or older, individuals with disabilities, low-income adults, and pregnant women.” Conn. Gen. Stat. § 17b-290(17)

6. **Basic rule.** Except as specified in paragraph (i), (j), and (k) of this section, the agency must determine financial eligibility for Medicaid based on “household income” as defined in paragraph (d) of this section.” 42 C.F.R. § 435.603(c)

General rule. Except as provided in paragraphs (d)(2)through (d)(4) of this section, household income is the sum of the MAGI-based income, as defined in paragraph (e) of this section, of every individual included in the individual’s household.” 42 C.F.R. § 435.603(d)(1)

Federal regulation provides as follows:

Basic rule for individuals claims as a tax dependent. In the case of an individual who expects to be claimed as a tax dependent by another taxpayer for the taxable year in which an initial determination or renewal of eligibility is being made, the household is the household of the taxpayer claiming such individual as a tax dependent, except that the household must be determined in accordance with paragraph (f)(3) of this section in the case of- Individuals under the age specified by the State under paragraph (f)(3)(iv) of this section who expect to be claimed by one parent as a tax dependent and are living with both parents but show parents do not expect to file a joint tax return.

42 C.F.R. § 435.603(f)(2)(ii)

7. Federal regulation provides as follows:

In the case of individual who do not expect to file a Federal tax return and do not expect to be claimed as a tax dependent for the taxable year in which an initial determination or renewal of eligibility is being made, or who are described in paragraph (f)(2)(i), (f)(2)(ii), or (f)(2)(iii) of this section, the household consists of the individual and, if living with the individual-

- I. The individual's spouse;
- II. The individual's children under the age specified in (f)(3)(iv) of this section; and
- III. In the case of individuals under the age specified in (f)(3)(iv) of this section, the individual's parents and siblings under the age specified in paragraph in (f)(3)(iv) of this section.
- IV. The age specified in this paragraph is either of the following, as elected by the agency in the State plan-
 - A. Age 19; or
 - B. Age 19 or, in the case of full-time students, age 21.

42 C.F.R. § 435.603(f)(3)

State statute provides as follows:

For purposes of the Medicaid program, the Commissioner of Social Services shall consider parental income and resources as available to a child under eighteen years of age who is living with his or her parents and is blind or disabled for purposes of the Medicaid program, or to any other child under twenty-one years of age who is living with his or her parents.

Conn. Gen. Stat. § 17b-261(b)

Based on the information provided by the Appellant on her [REDACTED] 2023 renewal application, AHCT determined the minor child's MAGI household as two: the Appellant and the minor child. At the administrative hearing, the Appellant testified the minor child's father resides in the home with her and the minor child. Federal regulation states financial eligibility for Medicaid is based on "household income" and household income is the sum of the MAGI-based income of every individual included in the individual's household. Federal regulation is supported by Connecticut General Statute 17b-261(b) which states parental income is considered available to a child under the age of twenty one when that child resides with his or her parents, including unmarried parents. The correct minor child's household includes both parents therefore the income from both parents is

considered even when the minor child is the tax dependent of only one parent and each parent files their own tax return.

Based on the hearing record, the total household's income cannot be determined as the income of the minor child's father is not known. Additional information is needed to determine the minor child's eligibility under the Husky A program.

DECISION

The Appellant's appeal is **remanded** back to AHCT for further review.

ORDER

1. AHCT must reopen the Appellant's [REDACTED] [REDACTED] 2023 renewal application requesting continued medical coverage under the Husky A program for the minor child.
2. AHCT must review the minor child's eligibility under the Husky A program as a household of three: the Appellant, the minor child, and minor child's father.
3. AHCT must request additional information from the Appellant to update her renewal application to include the minor child's father and allow a minimum of 10-days to provide the information necessary to make a new eligibility determination under the Husky A program for the minor child.
4. Compliance is due 14-days ([REDACTED] [REDACTED] from the date of this decision. Please provide proof AHCT has continued to process the Appellant's request for continued medical coverage under the Husky A program for the minor child.

Lisa A. Nyren

Lisa A. Nyren
Fair Hearing Officer

CC: Becky Brown, Access Health CT
Mike Towers, Access Health CT
Debra Henry, Access Health 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.

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.