



STATE OF NEW YORK  
DEPARTMENT OF HEALTH  
P.O. Box 11729  
Albany, NY 12211

## Notice of Decision

Decision Date: January 08, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003548

[REDACTED]

Dear [REDACTED],

On September 28, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 16, 2015 and June 13, 2015 eligibility determinations.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of NY State of Health.

If you have questions about your Decision, you can contact us by:

- Calling the Customer Service Center at 1-855-355-5777
- Sending Mail to:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- Sending a Fax to 1-855-900-5557

When contacting NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification number and the NY State of Health number at the top of this notice.

### Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545(b).

If you need this information in a language other than English or you need assistance reading this notice, we can help you. Call 1-855-355-5777 (TTY - English: 1-800-662-1220) (TTY - Spanish: 1-877-662-4886).

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## Decision

Decision Date: January 08, 2016

NY State of Health Number: [REDACTED]  
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## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the Marketplace properly disenroll your daughters from their Medicaid coverage effective May 31, 2015?

Did the Marketplace properly determine that your daughters were eligible to enroll in Child Health Plus with a \$9.00 per month premium each, effective July 1, 2015?

Did the Marketplace properly determine that your daughters were not eligible for Medicaid?

## Procedural History

Based on an eligibility determination notice issued on June 5, 2014, your daughters were enrolled in Medicaid coverage effective June 1, 2014.

On April 10, 2015, the Marketplace issued a notice stating it was time to renew your daughters' health insurance coverage. The notices stated that based on information from federal and state sources, the Marketplace could not make a decision about whether they qualified for continuing financial help in paying for your health coverage. You were directed to update the information in your NY State of Health account by May 15, 2015, or the financial help you were receiving might end.

No updates were made to your account before May 15, 2015.

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On May 16, 2015, the Marketplace issued an eligibility redetermination notice that stated your daughters were no longer eligible for Medicaid, Child Health Plus (CHP), tax credits or cost-sharing reductions. It also stated that they were not eligible to enroll in a qualified health plan at full cost through NY State of Health. The notice further stated their eligibility was would end effective May 31, 2015.

On May 18, 2015, the Marketplace issued a disenrollment notice confirming that your daughters' CHP coverage under Excellus Health Plan, Inc. would end effective May 31, 2015.

On June 12, 2015, the Marketplace received an updated application for health insurance.

On June 13, 2015, the Marketplace issued an eligibility redetermination notice stating that your daughters were eligible to enroll in CHP with a \$9.00 monthly premium each, effective July 1, 2015. The notice further stated that they were not eligible for Medicaid because your income of \$32,546.80 was over the allowable limit for that program.

On June 18, 2015, you spoke to the Marketplace's Account Review Unit and appealed (1) the May 18, 2015 disenrollment notice terminating your daughters' Medicaid coverage effective May 31, 2015, and (2) the June 13, 2015 determination insofar as your children were eligible for Child Health Plus, and ineligible for Medicaid.

On September 28, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and remained open as the Hearing Officer directed you to provide as additional evidence to corroborate your testimony: (1) all earnings statements issued to you during June 2015, and (2) all earnings statements issued to your oldest daughter during June 2015 as well as last earning statement reflecting her year to date earnings. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

On October 13, 2015, you provided (1) two earnings statements issued to you by your employer, [REDACTED], between June 12, 2015 and June 16, 2015, and (2) three earnings statements issued to your oldest daughter by her employer, [REDACTED], between June 6, 2015 and July 9, 2015 to the Appeals Unit via facsimile.

The record was closed on October 13, 2015.

## Findings of Fact

A review of the record support the following findings of fact:

- 1) You were daughters were initially enrolled in Medicaid effective June 1, 2014.
- 2) Your application reflects that you requested to receive all correspondence from the Marketplace electronically.
- 3) On April 10, 2015, the Marketplace issued a renewal notice requesting that you update your account by May 15, 2015 in order to determine whether your daughters' eligibility for financial assistance.
- 4) You testified that you received several e-mails from the Marketplace in April and May 2015 advising you that there were notices posted to your online account; however, since you could not remember your user name and password, you were not able to access the notices.
- 5) You testified that you received a copy of the eligibility determination notice issued on May 16, 2015 finding that your daughters' eligibility for Medicaid would end on May 31, 2015 by regular mail, but that it was too late to update your application since the May 15, 2015 deadline had already passed.
- 6) You testified that you live with your daughters, and they spend most nights at your residence at your residence.
- 7) You testified that you expected to file your 2015 taxes with a tax filing status of head of household. You will claim your oldest daughter as a dependent on that tax return. You further testified that your ex-spouse would be claiming your younger daughter. This has been the tax filing arrangement since your separation from your ex-spouse.
- 8) You testified that you have been divorced since May 2014 when the court issued its divorce decree.
- 9) The application that was submitted on June 12, 2015 listed annual household income of \$32,546.80, which consisted of \$932.80 you received once every two weeks from your employment with the [REDACTED] and (2) \$157.00 per week your oldest daughter receives from [REDACTED]. You testified that this was correct.
- 10) At the time of your June 12, 2015 application, your daughters were 17 and 14 years old, respectively.

- 11) Your application states that you will not be taking any deductions on your 2015 tax return.
- 12) You live in Livingston County, New York.
- 13) On October 13, 2015, you provided earnings statements issued to you by your employer, [REDACTED], reflecting that you received (1) \$956.80 on June 12, 2015 and (2) \$995.93 on June 26, 2015.
- 14) On October 13, 2015, you provided earnings statements issued to [REDACTED] by her employer, [REDACTED], reflecting that she received \$146.56 on June 11, 2015, \$133.44 on June 18, 2015, and \$144.00 on July 9, 2015.
- 15) You testified that your daughter resigned from her position at [REDACTED] on or about September 20, 2015.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## **Applicable Law and Regulations**

### Medicaid Renewal

In general, the Marketplace must review Medicaid eligibility once every 12 months or “whenever it receives information about a change in a beneficiary’s circumstances that may affect eligibility” (42 CFR § 435.916(a)(1), (d)). The Marketplace must make its “redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual’s account or other more current information available to the agency, including but not limited to information accessed through any data bases accessed by the agency” (42 CFR § 435.916(a)(2)).

The Marketplace must provide an individual with the annual redetermination notice, including the projected eligibility for coverage and financial assistance, and must require the qualified individual to report any changes within 30 days (45 CFR § 155.335(c), (e)). Once the 30-day period has lapsed, the Marketplace must issue a redetermination as projected by the notice, with consideration given to any updates provided by the individual (45 CFR § 155.335(h)).

### Household Composition

For purposes of Medicaid and CHP eligibility, generally the household size of a child who is claimed as a dependent on a tax return consists of the tax payer and

all persons whom such individual expect to claim as a tax dependent (42 CFR § 435.603(f)(2)).

The household size of a child who expects to be claimed as a tax dependent on a tax return by a non-custodial parent consists of the child's spouse, children, parents and siblings who are living with the child (42 CFR § 435.603(f)(2)(iii), (3)).

### Household Income

A taxpayer's household income includes the modified adjusted gross income (MAGI) all the individuals in the taxpayer's family who are required to file a return for the taxable year (26 CFR § 1.36B-1(e)(1)).

The income of a child is not included within the MAGI-based income of an individual if the child is not required to file a tax return under 26 USC § 6012 (45 CFR § 155.300(a), 42 CFR § 435.603(d)(2)). A child whose gross income is less than the federal standard deduction applicable to them is not required to file a U.S. Income Tax return (26 USC § 6012(a)(1)). The 2015 federal standard deduction for a tax dependent with a "single" filing status is \$6,300 (IRS Revenue Procedure 2014-61).

### Child Health Plus

Child Health Plus (CHP) is a sliding-scale-premium program for children who are in a household that is over income for regular Medicaid (see N.Y. Public Health Law § 2510 et seq. and 42 USC § 1397(a)). Eligibility rules are set out in NY Public Health Law (PHL) § 2511(2), as well as in the NYSDOH 2008-2012 Contract and Plan Manual.

A child who meets the eligibility requirements for CHP may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the federal poverty level (FPL) (PHL § 2511(2)(a)(iii)). To be eligible to enroll in CHP with subsidy payments, a child must not be "eligible for medical assistance"; that is, must not be eligible for Medicaid (PHL § 2511(2)(b)).

The amount of the premium payment, if any, that must be made on behalf of a child who enrolls in CHP depends upon the child's family household income (PHL § 2510(9)(d)). No payments are required for eligible children whose family household income is less than 160% of the FPL. If the family household income is 160% or higher, premiums range from \$9.00 per month to \$60.00 per month (PHL § 2510(9)(d)).

The CHP premium is \$9.00 per month for a child whose family household income is between 160% and 222% of the FPL (PHL § 2510(9)(d)(ii)).

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In an analysis of CHP and Medicaid eligibility, the determination is based on the FPL “for the applicable budget period used to determine an individual's eligibility” (42 CFR § 435.4). On the date of your application, that was the 2015 FPL, which was \$15,930.00 for a two-person household and \$20,090.00 for a three-person household (80 Fed. Reg. 3236, 3237).

### Medicaid for Children

A child who is at least one year of age but younger than nineteen is eligible for Medicaid if she meets the non-financial criteria and has a household modified adjusted gross income that falls at or below 154% of the FPL for the applicable family size (42 CFR § 435.118(c); New York Department of Social Services Administrative Directive 13ADM-03).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved March 19, 2014).

## **Legal Analysis**

The first issue under review is whether the Marketplace properly disenrolled your daughters from their Medicaid coverage May 31, 2015.

The record reflects that your daughters were initially enrolled in Medicaid, effective June 1, 2014, which was based on an eligibility determination notice issued on June 5, 2014.

Generally, the Marketplace must redetermine a qualified individual's eligibility for Medicaid once every 12 months, without requiring information from the individual if it able to do so based on reliable information contained in the individual's account or other more current information available to the agency. The Marketplace's April 10, 2015 renewal notice stated that there was not enough information to determine whether your daughters were eligible for financial assistance for health insurance coverage in 2015, and that you needed to supply additional information by May 15, 2015 or their financial assistance might end.

The record reflects that you did not provide any updates to your Marketplace account until June 12, 2015. You testified that you received e-mails from the Marketplace during April and May 2015 that instructed you that notices were posted to your online account; however, since you couldn't remember your user name and password, you weren't able to access the notices. In any event, it is concluded that there was sufficient evidence that the April 10, 2015 notice was properly issued to you.



Since you did not provide any updates to your account by May 15, 2015, the Marketplace's May 16, 2015, the May 16, 2015 eligibility determination was issued based on the information available to the Marketplace.

Accordingly, the Marketplace's May 16, 2015 eligibility determination is correct and AFFIRMED.

The second issue under review is whether the Marketplace properly determined that each of your daughters were eligible to enroll in Child Health Plus (CHP) with a \$9.00 per month premium.

According to the record, you expect to file your 2015 tax return with a filing status of head of household, and claim only your oldest daughter as your dependent. The record also reflects that while your ex-spouse intends to claim your youngest daughter as a dependent on your ex-spouse's tax return, she resides with you. Therefore, your oldest daughter is in a two-person household, while your youngest daughter is in a three-person household.

On your June 12, 2015 application, you attested to an expected household income of \$32,546.80 which consisted of (1) \$24,252.80 (\$932.80 x 26 weeks) you expect to receive from your employment with the [REDACTED] and (2) \$8,164.00 (\$157.00 x 52 weeks) your oldest daughter receives from [REDACTED]. You testified that this amount was correct when provided in your application. The application also stated that your daughters were 17 and 14 years old.

Since your oldest daughter's expected income for 2015 was \$8,164.00 at the time of your application, which is greater than the applicable federal standard deduction (\$6,300.00), her income was properly included in your MAGI-based income.

The Marketplace relied upon this information in issuing its determination.

A child is eligible to enroll in CHP if they meet the non-financial requirements, are not eligible for Medicaid, and have a household income below 400% of the federal poverty level (FPL).

Household income between 160% and 222% of that FPL are responsible for a \$9.00 per month CHP premium payment. On the date of your application, the relevant FPL was \$15,930.00 for a two-person household and \$20,090.00 for a three-person household. Since \$32,546.80 is 204.31% of the 2015 FPL for a two-person household and 162.00% of the 2015 FPL for a three-person household, the Marketplace properly found each of your daughters to be eligible for CHP with a \$9.00 per month premium payment.

The third issue is whether the Marketplace properly determined that your children were not eligible for Medicaid.

Medicaid can be provided through the Marketplace to children between the ages of one and nineteen who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 154% of the FPL for the applicable family size. Since \$32,546.80 is 204.31% of the 2015 FPL for a two-person household and 162.00% of the 2015 FPL for a three-person household, the Marketplace properly found your daughters ineligible for Medicaid.

Since the June 13, 2015 eligibility determination properly stated that, based on the information you provided, each of your daughters were eligible for coverage through CHP with a \$9.00 per month premium and ineligible for Medicaid, it is correct and is AFFIRMED.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. To be eligible for Medicaid, you daughters would need to meet the non-financial criteria and have an income no greater than 154% of the FPL, which is \$2,044.35 per month for a two-person household and \$2,578.22 for a three-person household.

While you provided documentation reflecting that you received \$1,952.01 during the month of your application, June 2015, you did not provide all of the earnings statements issued to your oldest daughter during that month. Since we cannot determine the total income she received during June 2015 based on the earning statements provided to us, there is insufficient evidence to return your case to the Marketplace to review your daughters' Medicaid eligibility during June 2015.

## **Decision**

The May 16, 2015 eligibility determination is AFFIRMED.

The June 13, 2015 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** January 08, 2016

## **How this Decision Affects Your Eligibility**

Your daughters were properly disenrolled from their Medicaid coverage, effective May 31, 2015.

Each of your daughters remain eligible for Child Health Plus with a \$9.00 per month premium, effective July 1, 2015.

Your daughters are not eligible for Medicaid.

### **If You Disagree with this Decision (Appeal Rights)**

This Decision is final unless you submit an appeal request to U.S. Department of Health and Human Services or bring a lawsuit under New York Civil Practice Law and Rules, Article 78.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months after the date of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the U.S. Department of Health and Human Services. This must be done within 30 days of the date of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c)).

If you wish to be represented by an attorney in bringing an outside appeal and do not know how to go about getting one, you may contact legal resources available to you. You may, for example, contact the local County Bar Association, Legal Aid, or Legal Services.

### **If You Have Questions about this Decision (Customer Service Resources):**

You can contact us in any of the following ways:

- By calling the Customer Service Center at 1-855-355-5777
- By mail at:  
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- By fax: 1-855-900-5557

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## **Summary**

The May 16, 2015 eligibility determination is AFFIRMED.

The June 13, 2015 eligibility determination is AFFIRMED.

Your daughters were properly disenrolled from their Medicaid coverage, effective May 31, 2015.

Each of your daughters remain eligible for Child Health Plus with a \$9.00 per month premium, effective July 1, 2015.

Your daughters are not eligible for Medicaid.

## **Legal Authority**

We are sending you this notice in accordance with 45 CFR § 155.545(a).

**A Copy of this Decision Has Been Provided To:**

