



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

Notice of Decision

Decision Date: June 16, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000004986

[REDACTED]

Dear [REDACTED],

On April 26, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's October 23, 2015 eligibility determination.

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 Account ID 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 Date: June 16, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000004986



Issues

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

Did NY State of Health properly determine that you were eligible to receive up to \$259.00 per month in advance payments of the premium tax credit, effective December 1, 2015?

Did NY State of Health properly determine that you were eligible for cost-sharing reductions, effective December 1, 2015?

Did NY State of Health properly determine that your child was eligible to enroll in a full price Child Health Plus plan or Child-Only qualified health plan, effective December 1, 2015?

Did NY State of Health properly determine that you and your child were not eligible for Medicaid?

Procedural History

On October 22, 2015, NY State of Health (NYSOH) received your application for health insurance. That day, a preliminary eligibility determination was prepared with regard to that application, stating that you were eligible to receive up to \$259.00 per month in advance payments of the premium tax credit (APTC), and eligible to receive cost-sharing reductions. Your child was eligible to enroll in a full pay Child Health Plus plan.

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Also on October 22, 2015, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as you and your child were not eligible for Medicaid. You also requested "Aid to Continue," in the form of continuing Medicaid coverage, pending the completion of the appeals process.

On October 23, 2015, NYSOH issued an eligibility determination notice based on the information contained in the October 22, 2015 application, stating that you were newly conditionally eligible to receive up to \$259.00 per month in APTC and newly conditionally eligible to receive cost-sharing reductions. Your child was newly eligible to enroll in a full price Child Health Plus plan or Child-Only qualified health plan. Your and your child's eligibility was effective as of December 1, 2015. The notice further stated that you and your child were not eligible for Medicaid because the household income was over the allowable income limit for that program.

Also on October 23, 2015, NYSOH issued an enrollment notice stating that you were enrolled in a qualified health place with a \$139.18 per month premium, and your child was enrolled in a Child Health Plus plan with a \$9.00 per month premium. Your enrollments were effective as of December 1, 2015.

On October 28, 2015, NYSOH issued cancellation notices stating that you and your child were terminated from your health plans effective October 27, 2015.

Also on October 28, 2015, NYSOH issued an eligibility determination notice stating that you and your child were eligible for Medicaid as of November 1, 2015. The notice stated that you were eligible for Medicaid because your original eligibility had been redetermined by an eligibility specialist at NYSOH.

Finally on October 28, 2015, NYSOH issued an enrollment notice stating that you and your child were enrolled in a Medicaid Managed Care plan as of December 1, 2015.

On January 19, 2016, you had a scheduled telephone hearing. A Hearing Officer from NYSOH Appeals Unit attempted to call you at the phone number you provided but was unable to reach you.

On January 25, 2016, NYSOH Appeals Unit issued a dismissal of your appeal because you failed to appear for your hearing.

On February 18, 2016, you submitted a letter requesting the dismissal of your appeal be vacated. This request was granted.

On April 13, 2016, NYSOH issued a renewal notice stating that it was time to renew your and your child's health insurance coverage. You were asked to

update your account by May 15, 2016 or the financial assistance you were getting may end.

On April 18, 2016, your NYSOH account was updated.

On April 19, 2016, NYSOH issued an eligibility determination notice stating that you were eligible to enroll in the Essential Plan, effective June 1, 2016. Your daughter was eligible to enroll in Child Health Plus with a \$9.00 per month premium, effective June 1, 2016.

Also on April 19, 2016 NYSOH issued a disenrollment notice stating that your and your child's enrollment in a Medicaid Managed Care plan would end effective May 31, 2016.

On April 22, 2016 NYSOH issued an enrollment confirmation notice stating that you were enrolled in the Essential Plan and your child was enrolled in a Child Health Plus plan effective June 1, 2016.

On April 26, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

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

- 1) You testified that you expected to file your 2015 taxes with a tax filing status of single. You will claim no dependents on that tax return.
- 2) You testified that your child is claimed as a dependent by her father.
- 3) Your application indicates that your child resides with you and her father.
- 4) The application that was submitted on October 22, 2015 listed annual household income of \$22,560.00 you earn from your employment and \$14,989.00 your child's father receives from his employment. You testified that these amounts were correct.
- 5) Your application states that you will not be taking any deductions on your 2015 tax return.
- 6) Your application states that you live in Dutchess County.
- 7) The record indicates that you were granted Aid to Continue. As a result you and your child were enrolled into Medicaid through May 31, 2016.

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- 8) The record does not include any eligibility determination notices that explain that your apparent Medicaid eligibility after November 1, 2015 only represented temporary coverage under Aid to Continue, pending completion of the appeals process.
- 9) You submitted a letter on February 18, 2016 that states you contacted NYSOH in November in regards to the notices you received awarding you Medicaid and you were advised by a representative that you did not need to worry about your appeal because you were granted an extension of your Medicaid coverage.
- 10) You testified that you are satisfied with the Essential Plan coverage that you have as of June 1, 2016.

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

Applicable Law and Regulations

Advance Payments of the Premium Tax Credit

APTC is available to a person who is eligible to enroll in a qualified health plan (QHP) and (1) expects to have a household income between 138% and 400% of the applicable poverty level (FPL) (2) expects to file a tax return and claim a personal exemption deduction for a person who meets the eligibility requirements to enroll in a QHP, and (3) is not otherwise eligible for minimum essential coverage except through the individual market (see 45 CFR § 155.305(f), 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

The maximum amount of APTC that can be authorized equals:

- 1) the cost of the health insurance premium for the taxpayer's coverage family in the second lowest cost silver plan offered through NY State of Health in the county where the taxpayer resides

minus

- 2) the taxpayer's expected contribution amount

(see 26 USC § 36B, 26 CFR § 1.36B-3).

The taxpayer's expected contribution amount is the amount that the taxpayer is expected to spend on health insurance premiums. The expected contribution for

2015 is set by federal law at 2.01% to 9.56% of household income (26 USC § 36B(b)(3)(A), 26 CFR § 1.36B-3T(g)(1), IRS Rev. Proc. 2014-37).

In an analysis of APTC eligibility, the determination is based on the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested (45 CFR §§ 155.300(a), 155.305(f)(1)(i)). On the date of your application, that was the 2014 FPL, which is \$11,670.00 for a one-person household (79 Fed. Reg. 3593).

For annual household income in the range of at least 150% but less than 200% of the 2014 FPL, the expected contribution is between 4.02% and 6.34% of the household income (26 CFR § 1.36B-3T(g)(1), 45 CFR § 155.300(a), IRS Rev. Proc. 2014-37).

Cost-Sharing Reductions

Cost-sharing reductions (CSR) are available to a person who (1) is eligible to enroll in a QHP through NYSOH, (2) meets the requirements to receive APTC, (3) is expected to have an annual household income that does not exceed 250% of the FPL for the first day of the open enrollment period of the benefit year for which coverage is requested, and (4) is enrolled in a silver-level QHP (45 CFR § 155.300(a), 45 CFR § 155.305(g)(1)).

Household Composition for a Child

In the case where a child is claimed by one parent as a dependent and who is living with both parents who are not filing a joint tax return (42 CFR § 435.603(f)(2)(ii)), the child's family includes the following persons, if living with the child: (1) the child's parents, (2) the child's spouse, (3) the child's children and siblings under the age of 19, or 21 if a full-time student (42 CFR § 435.603(f)(3)).

Child Health Plus

A child who meets the eligibility requirements for Child Health Plus 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) (New York Public Health Law (PHL) § 2511(2)(a)(iii)). To be eligible to enroll in Child Health Plus with subsidy payments, a child must not be "eligible for medical assistance"; that is, must not be eligible for Medicaid (NY Public Health Law § 2511(2)(b)).

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

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The amount of the premium payment, if any, that must be made on behalf of a child who enrolls in Child Health Plus 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 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)).

In an analysis of Child Health Plus 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 \$20,090.00 for a three-person household (80 Fed. Reg. 3236, 3237).

Medicaid

Medicaid can be provided through NYSOH to adults who: (1) are age 19 or older and under age 65, (2) are not pregnant, (3) are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act, (4) are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part, and (5) have a household modified adjusted gross income (MAGI) that is at or below 138% of the FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), N.Y. Soc. Serv. Law § 366(1)(b)).

A child who is at least one year of age but younger than nineteen is eligible for Medicaid if he or 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).

In an analysis of 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 is \$11,770.00 for a one-person household and \$20,090.00 for a three-person household (80 Fed. Reg. 3236, 3237).

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

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The first issue is whether NYSOH properly determined that you were eligible for an APTC of up to \$259.00 per month.

The application that was submitted on October 22, 2015 listed an annual household income of \$22,560.00 and the eligibility determination relied upon that information.

You are in a one-person household. You expect to file your 2015 income taxes as single and will claim no dependent on that tax return.

You reside in Dutchess County, where the second lowest cost silver plan available for an individual through NYSOH costs \$372.38 per month.

An annual income of \$22,560.00 is 193.32% of the 2014 FPL for a one-person household. At 193.32% of the FPL, the expected contribution to the cost of the health insurance premium is 6.03% of income, or \$113.36 per month.

The maximum amount of APTC that can be approved equals the cost of the second lowest cost silver plan available through NYSOH for an individual in your county (\$372.38 per month) minus your expected contribution (\$113.36 per month), which equals \$259.02 per month. Therefore, rounding to the nearest dollar, NYSOH correctly determined you to be eligible for up to \$259.00 per month in APTC.

The second issue is whether you were properly found eligible for cost-sharing reductions. Cost-sharing reductions are available to a person who has a household income no greater than 250% of the FPL. Since a household income of \$22,560.00 is 193.32% of the applicable FPL, NYSOH correctly found you to be eligible for cost-sharing reductions.

Therefore, the October 23, 2015 eligibility determination is AFFIRMED insofar as it found you eligible to receive up to \$259.00 per month in APTC and eligible to receive cost-sharing reductions.

The third issue is whether NYSOH properly determined that your child was eligible to enroll in a full price Child Health Plus plan or Child-Only qualified health plan.

When calculating household size for a child who is living with both parents but only be claimed by one parent as a tax dependent, the household consists of the child, both parents and any siblings under the age of 19. On the date of your NYSOH application, your child resided with you and her father. Therefore, she is in a three-person household.

The application that was submitted on October 22, 2015 listed annual household income of \$22,560.00 you earn from your employment and \$14,989.00 your child's father receives from his employment. NYSOH relied upon that information and determined your child's household income to be \$37,549.00.

A child is eligible to enroll in Child Health Plus if they meet the non-financial requirements, are not eligible for Medicaid, and have a household income below 400% of the FPL. Household income between 160% and 222% of that FPL are responsible for a \$9.00 per month Child Health Plus premium payment. On the date of your application, the relevant FPL was \$20,090.00 for a three-person household. Since \$37,649.00 is 186.90% of the 2015 FPL, NYSOH improperly found your child to be eligible for a full price Child Health Plus or a Child-Only qualified health plan.

Therefore, the October 23, 2015 eligibility determination is MODIFIED to state that your child is eligible to enroll in a Child Health Plus plan with a \$9.00 per month premium.

The final issue is whether NYSOH properly determined that you and your child were not eligible for Medicaid.

Medicaid can be provided through NYSOH to adults between the ages of nineteen and 65 who meet the non-financial requirements and have a household MAGI that is at or below 138% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$11,770.00 for a one-person household. Since \$22,560.00 is 191.67% of the 2015 FPL, NYSOH properly found you to be not eligible for Medicaid on an expected annual income basis, using the information provided in your application.

Medicaid can be provided through NYSOH to children between the ages of one and nineteen who meet the non-financial requirements and have a household MAGI that is at or below 154% of the FPL for the applicable family size. Since \$37,549.00 is 186.90% of the 2015 FPL for a three-person household NYSOH properly found your child to be not eligible for Medicaid.

Therefore, the October 23, 2015 eligibility determination is AFFIRMED insofar as it found you and your child not eligible for Medicaid.

The record indicates that you were granted Aid to Continue pending the outcome of your appeal. As a result you and your child were enrolled into Medicaid through May 31, 2016.

On October 28, 2015 NYSOH issued an eligibility determination notice stating that you and your child were eligible for Medicaid as of November 1, 2015. The notice stated that you were eligible for Medicaid because your original eligibility was redetermined by an eligibility specialist at NYSOH. There is nothing in this

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notice that indicates that this eligibility was a result of your request for Aid to Continue during the appeals process. Further, you state that you contacted NYSOH in November in regards to this notice and you were advised by a representative that you did not need to worry about your appeal because you were granted an extension of your Medicaid coverage.

Therefore, it was reasonable for you to believe that you and your child were legitimately eligible for and enrolled into Medicaid coverage until May 31, 2016. This decision affirming the October 23, 2015 determination finding you and your child ineligible for Medicaid will have no effect on the October 28, 2015 notice finding you and your child eligible for Medicaid as of November 1, 2015, or the April 19, 2016 notice finding you eligible for the Essential Plan and your child eligible for Child Health Plus with a \$9.00 premium, effective June 1, 2016.

Decision

The October 23, 2015 eligibility determination is **AFFIRMED** as it relates to your eligibility.

The October 23, 2015 eligibility determination is **MODIFIED** to state that your child was eligible to enroll in a Child Health Plus plan with a \$9.00 per month premium.

This decision has no effect on your and your daughter's Medicaid eligibility through May 31, 2016.

Effective Date of this Decision: June 16, 2016

How this Decision Affects Your Eligibility

This decision affirming the October 23, 2015 determination finding you and your child ineligible for Medicaid will have no effect on the October 28, 2015 notice finding you and your child eligible for Medicaid as of November 1, 2015 or the April 19, 2016 finding you eligible for the Essential Plan and your child eligible for Child Health Plus with a \$9.00 premium, effective June 1, 2016.

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.

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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 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 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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P.O. Box 11729
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- By fax: 1-855-900-5557

Summary

The October 23, 2015 eligibility determination is **AFFIRMED** as it relates to your eligibility.

The October 23, 2015 eligibility determination is **MODIFIED** to state that your child was eligible to enroll in a Child Health Plus plan with a \$9.00 per month premium.

This decision affirming the October 23, 2015 determination finding you and your child ineligible for Medicaid will have no effect on the October 28, 2015 notice finding you and your child eligible for Medicaid as of November 1, 2015 or the April 19, 2016 finding you eligible for the Essential Plan and your child eligible for Child Health Plus with a \$9.00 premium, effective June 1, 2016.

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Legal Authority

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A Copy of this Decision Has Been Provided To:

