



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

## Notice of Decision

Decision Date: May 19, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000005677

[REDACTED]

Dear [REDACTED],

On March 18, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 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 the 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.

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: May 19, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000005677



## Issues

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

Did NY State of Health (NYSOH) properly determine that your four youngest children were not eligible for Medicaid, as of your December 22, 2015 application?

Did NYSOH properly determine that your youngest four children were not eligible for Child Health Plus, as of your December 22, 2015 application?

## Procedural History

On December 22, 2015, NYSOH received your completed application for health insurance. That day, a preliminary eligibility determination was prepared with regard to your application, stating that your youngest four children were eligible to purchase a qualified health plan (QHP) at full cost through NYSOH, effective February 1, 2016, but were not eligible for financial assistance.

Also on December 22, 2015, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination as it related to your youngest four children's eligibility for financial assistance through NYSOH.

On December 23, 2015, NYSOH issued an eligibility determination notice based on the information contained in the December 22, 2015 application. It stated that your youngest four children were eligible to purchase a QHP at full cost through NYSOH, effective February 1, 2016, but that:

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- Your youngest four children were not eligible for Medicaid or Child Health Plus (CHP), because data sources showed that they were already enrolled in Medicaid, CHP, or another program;
- Your youngest three children were not eligible for Medicaid because the household income you provided of \$50,180.00 was over the allowable income limit of \$44,970.00;
- The oldest of the four children [REDACTED] was not eligible for advance payments of the premium tax credit because NYSOH had not yet received requested information to verify her household income and data sources showed that she was already enrolled in or eligible for a public insurance program such as Medicaid, CHP, or another program.

On March 18, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and left open at the end of the hearing so that you could submit as directed by the Hearing Officer a notice you received from the Schenectady County Department of Social Services, W2s for the 2015 tax year for you and your wife, and paystubs for the month of March 2016 for you and your wife.

On March 21, 2016, you faxed a 22-page document to the Appeals Unit consisting of the following:

1. A 15-page "Notice of Decision on Your Medical Assistance" [REDACTED] from New York Health Options, [REDACTED]
2. A copy of your 2015 W2;
3. A copy of your wife's 2015 W2;
4. A paystub dated March 4, 2016 in your name;
5. A paystub dated March 18, 2016 in your name;
6. A paystub dated March 4, 2016 in your wife's name;
7. A paystub dated March 18, 2016 in your wife's name.

Taken together, these documents are entered into the record as Appellant's Exhibit A. The record is now closed.

## **Findings of Fact**

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

- 1) Your application states that you expect to file your 2016 taxes with a tax filing status of married filing jointly. Your application states that you will claim four dependents on that tax return.
- 2) You testified at the hearing that you will actually be claiming five dependents on your 2016 tax return. The record reflects that your most

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recent application (filed after the request for this appeal) on December 24, 2015 stated that you plan to claim five dependents on your 2016 tax return.

- 3) Your application states that both you and your wife will be taking deductions of \$2,600.00 each on your 2016 tax return.
- 4) You are seeking insurance for your four youngest children, whose NYSOH IDs and ages at the time of your December 22, 2015 application are as follows:



- 5) You are not seeking health insurance for your oldest child through this appeal ( [REDACTED] ).
- 6) The application that was submitted on December 22, 2015 listed annual household income of \$50,180.00 consisting of \$24,700.00 you earn from your employment and \$25,480.00 your spouse earns from her employment. NYSOH relied on this information.
- 7) You testified at the hearing that your gross income for 2015 was \$24,307.00, your spouse's gross income for 2015 was approximately \$24,500.00, and that you both expect your 2016 income to be comparable.
- 8) After the hearing, you submitted a copy of your 2015 W2 and your wife's 2015 W2. Your 2015 W2 shows a gross income, after deductions for your 403(b) retirement plan contribution, of \$24,307.82.
- 9) Your wife's 2015 W2 shows a gross income, after deductions for her 403(b) retirement plan contribution, of \$24,570.38. (Appellant's A).
- 10) You testified that your gross monthly income for March 2016 consisted of two biweekly payments of \$1,050.00, and your wife's monthly income for March 2016 consisted of two biweekly payments of \$1075.00.
- 11) After the hearing, you submitted two paystubs dated March 4, 2016 and March 18, 2016, both showing gross pay of \$1,050.31. Each paystub also showed \$100.00 being taken out for your 403(b) retirement plan, making your gross biweekly income \$950.31 (Appellant's A).

- 12) You also submitted two paystubs for your wife dated March 4, 2016 and March 18, 2016, both showing gross pay of \$1,055.39. Each paystub also showed \$100.00 being taken out for her 403(b) retirement plan, making her gross biweekly income \$955.39 (Appellant's A).
- 13) You testified that the oldest of the children at issue in this appeal is a full-time student, and will have no income in 2016.
- 14) You testified that your children were receiving Medicaid through your local Department of Social Services, but that you received a notice stating that their coverage would end on March 31, 2016 because they are over income for Medicaid coverage.
- 15) After the hearing, you uploaded a 15-page notice from New York Health Options, dated February 26, 2016, stating that Medicaid coverage for your youngest three children would be terminated effective April 1, 2016 because their gross income of \$4,560.83 is over the allowable MAGI (Modified Adjusted Gross Income) limit of \$4,180.00 (Appellant's A).
- 16) This same notice stated that Medicaid coverage for the oldest child at issue in this appeal would be terminated effective March 7, 2016 because her gross income of \$4,560.83 is over the allowable MAGI limit of \$4,207.00 (Appellant's A).
- 17) You testified that you are seeking CHP coverage for your youngest three children, and appropriate coverage with financial assistance for the oldest child at issue in this appeal.
- 18) Your application states that you live in Schenectady County.

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

## **Applicable Law and Regulations**

### 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 federal poverty level (FPL) for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), NY Social Services Law § 366(1)(b)).

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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 \$32,570.00 for a six-person household (80 Federal Register 3236, 3237).

### Medicaid for Children

A child who is at least one year of age but younger than 19 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 \$32,570.00 for a six-person household (80 Fed Reg 3236, 3237).

### Child Health Plus

A child under the age of nineteen may be eligible for subsidized coverage through Child Health Plus provided (1) he or she lives in a household having a household income at or below 400% of the FPL; (2) is not eligible for medical assistance; (3) is not eligible for coverage under the public employees' state health benefits plan, and (4) is a resident of New York State (NY Public Health Law § 2511(2)(a-e)).

The “period of eligibility” for Child Health Plus is “that period commencing on the first day of the month during which a child is an eligible child and enrolled or recertified for enrollment on an annual basis based on all required information and documentation and ending on the last day of the twelfth month following such date,” unless the premiums are not timely paid or the child no longer resides in New York State, gains access to or obtains other health insurance coverage, reaches the age of 19 or becomes eligible for Medicaid (NY Public Health Law § 2510(6)). Children who “age out” of Child Health Plus are disenrolled from the health plan on the last day of the month in which they reach 19 years of age (see e.g. State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014, 42 CFR § 457.350).

## **Legal Analysis**

The first issue is whether NYSOH properly determined that your four youngest children were not eligible for Medicaid as of your December 22, 2015 application.

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A child who is at least one year of age but younger than 19 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.

To be eligible for Medicaid, your youngest children would need to meet the non-financial criteria and have an annual income no greater than 154% of the FPL. However, since your three youngest children were already in receipt of Medicaid through your local Department of Social Services (LDSS), they did not meet the non-financial criteria as they were already enrolled in mandatory coverage under the state's Medicaid State plan. Therefore, it is not necessary to address, at this point, whether your youngest three children might have been financially eligible for Medicaid, as they did not meet the non-financial criteria.

Likewise, 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.

To be eligible for Medicaid, the nineteen-year old who is at issue in this appeal would have to have met the non-financial criteria and had an annual income of no greater than 138% of the FPL. However, since she was also already in receipt of Medicaid through LDSS, she did not meet the financial criteria, as she was already enrolled in mandatory coverage under the state's Medicaid State plan. Therefore, it is also not necessary to address, at this point, whether she was financial eligible for Medicaid, as she did not meet the non-financial criteria.

Since the December 23, 2015 eligibility determination properly stated that your four children who are the subject of this were not eligible for Medicaid at the time of your December 22, 2015 application, it is correct and is AFFIRMED.

The second issue under review is whether NYSOH properly determined that your four youngest children were not eligible for CHP, as of your December 22, 2015 application.

A child under the age of nineteen may be eligible for subsidized coverage through Child Health Plus provided (1) he or she lives in a household having a household income at or below 400% of the FPL; (2) is not eligible for medical assistance; (3) is not eligible for coverage under the public employees' state health benefits plan, and (4) is a resident of New York State.



Your oldest child at issue in this appeal is not included in this analysis, as she was nineteen at the time of your December 22, 2015 application, and therefore not eligible for CHP coverage.

At the time of your December 22, 2015 application, the other three children at issue in this appeal were all receiving Medicaid through LDSS. Therefore, since they were eligible for medical assistance, they were not eligible for CHP coverage. It is therefore not necessary to determine whether they meet the financial criteria, as they do not meet the non-financial criteria.

Since the December 23, 2015 eligibility determination properly stated that your four children who are the subject of this appeal were not eligible for CHP coverage at the time of your December 22, 2015 application, it is correct and is AFFIRMED.

You testified that you and your wife would be claiming five dependents instead of four, and that fifth dependent was added to your account in your December 24, 2015 application.

At the hearing, you also testified that all four of your children who are the subject of this appeal would be losing their Medicaid coverage as of March 31, 2016. After the hearing, you submitted documentation in the form of a notice from New York Health Options showing that Medicaid coverage would be terminated for the youngest three children at issue in this appeal on April 1, 2016, and on March 7, 2016 for the oldest child (Appellant's A).

Since the time the eligibility determination under review was issued on December 23, 2015, you have updated your account three times.

## **Decision**

The December 23, 2015 eligibility determination notice is AFFIRMED.

However, because you have provided testimony that your family's coverage outside of NYSOH ended on March 31, 2016, your case is RETURNED to NYSOH for a new determination of your children's eligibility for coverage and financial assistance through NYSOH, based on a seven-person household with an annual household income of \$49,540.00, effective April 1, 2016.

NYSOH is directed to inform you if any additional documentation is needed to make this determination, and is directed to notify you of its decision in writing.

**Effective Date of this Decision:** May 19, 2016

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

Your children were not eligible for Medicaid or CHP coverage as of your December 22, 2015 application because they had coverage through LDSS.

NYSOH will re-determine their eligibility for coverage and financial assistance as of April 1, 2016, and will notify you of its decision.

You may be required to provide additional information or documentation to aid NYSOH in making a new eligibility determination.

## **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 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:  
NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

The December 23, 2015 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH for a new determination of your children's eligibility for coverage and financial assistance through NYSOH, based on a seven-person household with an annual household income of \$49,540.00, effective April 1, 2016.

NYSOH is directed to inform you if any additional documentation is needed to make this determination, and is directed to notify you of its decision in writing.

Your children were not eligible for Medicaid or CHP coverage as of your December 22, 2015 application because they had coverage through LDSS.

NYSOH will re-determine their eligibility for coverage and financial assistance as of April 1, 2016, and will notify you of its decision.

You may be required to provide additional information or documentation to aid NYSOH in making a new eligibility determination.

## **Legal Authority**

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

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

