



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

## Notice of Decision

Decision Date: June 8, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000005826

[REDACTED]

Dear [REDACTED],

On April 22, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health's December 26, 2015 eligibility determination notice.

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 § 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: June 8, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000005826



## 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 child's eligibility for and enrollment in her Child Health Plus plan was effective February 1, 2016?

Did NYSOH properly determine that your child was not eligible for Medicaid as of your December 25, 2015 renewal application?

## Procedural History

On January 1, 2015, NYSOH issued a notice of eligibility redetermination, based on your December 31, 2014 application, stating that your child was conditionally eligible for Medicaid, effective December 1, 2014, pending submission of information regarding third party health insurance. Your child was subsequently enrolled in a Medicaid Managed Care (MMC) plan.

On October 24, 2015, NYSOH issued a notice stating that it was time to renew your child's health insurance. The notice also stated that, based on information from federal and state sources, NYSOH could not make a decision about whether your child would qualify for financial help paying for her health coverage, and that you needed to update your account by December 15, 2015, or your child might lose the financial assistance she was currently receiving.

No updates were made to your account by December 15, 2015.

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On December 21, 2015, NYSOH issued an eligibility determination notice stating that your child was not eligible for Medicaid, Child Health Plus (CHP), or to receive tax credits or cost-sharing reductions to help pay for the cost of insurance. Your child also could not enroll in a qualified health plan at full cost. This was because you had not responded to the renewal notice and had not completed the renewal within the required time frame. Your child's eligibility ended December 31, 2015.

On December 25, 2015, NYSOH received your child's updated application for health insurance.

On December 26, 2015, NYSOH issued a notice of eligibility determination, based on your December 25, 2015 application, stating that your child was eligible to enroll in CHP with a \$9.00 monthly premium, effective February 1, 2016.

Also on December 26, 2015, NYSOH issued a notice of enrollment, based on your plan selection on December 25, 2015, stating that your child was enrolled in a CHP plan and that coverage would start on February 1, 2016.

On December 29, 2015, you spoke to NYSOH's Account Review Unit and appealed the level of financial assistance that your child was determined to be eligible for in that she was not found eligible for Medicaid and MMC. You also appealed the start date of your child's CHP plan insofar as it did not begin January 1, 2016.

On January 12, 2016, NYSOH granted Aid to Continue to your daughter pending the outcome of your appeal.

On January 13, 2016, NYSOH issued an eligibility determination stating that your daughter was eligible for Medicaid effective January 1, 2016. The notice also directed you to pick a health plan, because your current coverage would end January 31, 2016.

On April 22, 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, and the record reflects, that you receive all of your notices from NYSOH by electronic mail.

- 2) You testified that you recall receiving an email in October 2015 alerting you that there was an urgent notice available in your NYSOH account.
- 3) You testified that you did not log in to your account after receiving the October 2015 email until sometime at the end of November 2015 because you believed that your daughter's coverage was renewing automatically, you had not been through a renewal before, and you were very busy at the time.
- 4) You testified that you did not know that you needed to update your account until you received a notice from NYSOH stating that your daughter's eligibility had been redetermined. You testified that you updated your NYSOH account after you received this notice.
- 5) The record reflects that on December 25, 2015, NYSOH received your child's updated application for health insurance.
- 6) Your December 25, 2015 application listed an annual household income of \$34,400.00, and NYSOH relied on this information in its December 26, 2015 eligibility determination.
- 7) You testified, and the record reflects, that you live in a household of three consisting of yourself, your spouse, and your daughter.
- 8) You testified, and the record reflects, that you plan to file your 2016 taxes as married filing jointly, and to claim one dependent.
- 9) You testified that you do not plan to take any deductions on your 2016 tax return that you are aware of at this point.
- 10) You testified that your income is less than what you listed at the time of your December 26, 2015 application because you were working a [REDACTED] in 2015, but that job ended in 2015.
- 11) You testified that you believed you needed to list your 2015 income on your application, so that is why you listed \$34,400.00 as your annual income.
- 12) You testified that, as of January 1, 2016, your gross earnings are \$927.00 semi-monthly, or \$22,248.00 annually. You also testified that you will receive approximately \$2000.00 from your investments in 2016. You estimated that your total income for 2016 will be somewhere around \$25,000.00 from a combination of your earnings and your investment income.

- 13) You have not updated your NYSOH account to reflect the changes in income to which you testified at the hearing.
- 14) You testified that your daughter did not use her medical coverage in January 2016, but that she has used it since February 15, 2016.
- 15) You testified that you are seeking for your child to be found eligible for Medicaid, and for your child's eligibility and coverage to begin as of January 1, 2016.

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

## **Applicable Law and Regulations**

### Annual Eligibility Redetermination

Generally, when NYSOH conducts annual eligibility redeterminations for qualified individuals who are seeking financial assistance through insurance affordability programs for the upcoming year, NYSOH is required to request that the qualified individual provide updated income and family size information for use in an eligibility redetermination for the upcoming year (see 45 Code of Federal Regulations (CFR) § 155.335(a), (b)).

NYSOH must send an annual renewal notice that contains the individual's projected eligibility for the upcoming year (45 CFR § 155.335(c)(3)). If a qualified individual does not respond to the notice after a 30-day period, NYSOH must redetermine that individual's eligibility using the information and projected eligibility provided in the annual renewal notice (45 CFR § 155.335(g), (h)). NYSOH must ensure this redetermination is effective on the first day of the coverage year or in accordance with the rules specified in 45 CFR § 155.330(f) regarding effective dates, whichever is later (45 CFR § 155.335(i)).

### Medicaid for Children

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 was \$20,090.00 for a three-person household (80 Federal Register 3236, 3237).

### Child Health Plus

A child who meets the eligibility requirements for Child Health Plus (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) (New York Public Health Law (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 (NY Public Health Law § 2511(2)(b)).

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 CHP premiums are not timely paid, or the child no longer resides in New York State, gains access to or obtains other health insurance coverage, or becomes eligible for Medicaid (NY Public Health Law § 2510(6)).

“A State must specify a method for determining the effective date of eligibility for [Child Health Plus], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [Child Health Plus] and other insurance affordability programs as family circumstances change and avoids gaps or overlaps in coverage” (42 CFR § 457.340(f)).

The State of New York has provided that a child’s period of eligibility for Child Health Plus begins on the first day of the month during which a child is eligible. A child will become eligible on the first day of the next month, if the application is received by the 15th of the month; applications received after the 15th day of the month will be processed for the first day of the second following month (see State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

### Electronic Notices

Applicants may choose to receive notices and information from NYSOH by either electronic or regular mail. If the applicant elects to receive electronic notices, NYSOH must send an email or other electronic communication alerting the individual that a notice has been posted to the applicant’s account (45 CFR § 155.230(d); 42 CFR § 435.918(b)(4)).

## Legal Analysis

The first issue under review is whether NYSOH properly determined that your child's enrollment in her Child Health Plus plan was effective February 1, 2016.

Your child was originally found eligible for Medicaid, effective December 1, 2014.

Generally, NYSOH must redetermine a qualified child's eligibility for Child Health Plus once every 12 months without requiring information from the individual, if it is able to do so based on reliable information contained in the individual's account or other more current information available to the agency. NYSOH's October 24, 2015 renewal notice stated that there was not enough information to determine whether your child was eligible to continue to receive financial assistance for health insurance, and that you needed to supply additional information by December 15, 2015, or any such financial assistance might end.

Because there was no timely response to this notice, your child's enrollment in her MMC plan was terminated effective December 31, 2015.

You testified and the record reflects that you elected to receive alerts regarding notices from NYSOH electronically. You testified that you recall receiving an email sometime in October 2015 notifying you that there was an urgent notice in your account. You further testified that you did not log in to your account to view the notice until sometime in November or December 2015. You testified that you thought your daughter would be renewed automatically, and that you were new to the renewal process. You also testified that you were very busy at the time you received the October 2015 email.

Since you acknowledged receipt of the October 2015 email and since your testimony does not contain a compelling reason for why you failed to view the renewal notice and update your account within the required timeframe, it is concluded that NYSOH provided you with proper notice of the need to renew your daughter's eligibility, and that you failed to do so in a timely manner.

The record reflects that you first renewed your child's eligibility for financial assistance through NYSOH for the new coverage year on December 25, 2015.

The State of New York has provided that a child's period of eligibility for Child Health Plus begins on the first day of the month during which a child is eligible. Applications received after the 15th day of the month will be processed for the first day of the second following month. Therefore, NYSOH properly determined that your child's CHP eligibility for and enrollment in her CHP plan began on February 1, 2016.

The second issue under review is whether NYSOH properly determined that your child was not eligible for Medicaid as of your December 25, 2015 application.

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).



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. There is no indication in the record that your child does not meet the non-financial criteria.

In an analysis of Medicaid eligibility, the determination is based on the FPL for applicable budget period used to determine eligibility. On the date of your application, that was the 2015 FPL, which was \$20,090.00 for a household of three. At the time of your December 25, 2015 renewal application, you reported an annual household income of \$34,400.00. Since an annual household income of \$34,400.00 is 171.23% of the 2015 FPL for a household of three, NYSOH correctly determined that your daughter was not eligible for Medicaid based on the information in your December 25, 2015 application.

However, you testified at the hearing that, when you completed your December 25, 2015 application, you used your 2015 income. You testified that you had a [REDACTED] in 2015 that caused your income to be higher, but you no longer have that job. You testified that you expect your annual earned income for 2016 to be approximately \$22,248.00, and that you expect to have income from investments as well, making your total household income approximately \$25,000.00 for 2016.

Since you have not updated your NYSOH account to reflect this change in your income, nor have you provided any documentation to NYSOH to show proof of your 2016 income, NYSOH does not have enough information to make a new determination as to your income as of this point.

Therefore, the December 26, 2015 notice of eligibility determination is AFFIRMED in part, insofar as it finds your daughter's eligibility for CHP began on February 1, 2016. The December 26, 2015 decision is MODIFIED in part to state that your daughter is conditionally eligible for CHP, pending verification of your household income.

You are directed to update your account and submit documentation of your income to NYSOH, including:

- One month (4 consecutive weeks) of paystubs showing gross earnings;
- A termination letter or other letter from your former employer regarding the job you held in 2015 that you testified you no longer hold;
- Proof of the income from your investments, which you testified to at the hearing
- Documentation of any other income that your household receives.

You must update your account and provide this documentation within thirty (30) days of the date on this decision.

Once you have updated your account and provided income documentation for 2016, your case is RETURNED to NYSOH, and NYSOH is directed to redetermine your daughter's eligibility for health insurance coverage, effective January 1, 2016.

## **Decision**

The December 26, 2015 eligibility determination is AFFIRMED insofar as it states that your daughter's eligibility for CHP coverage began on February 1, 2016; however, it is MODIFIED to state that your daughter is conditionally eligible for CHP, pending verification of your household's income.

You are directed to update your NYSOH account and provide income documentation as outlined above within thirty days of the date of this decision.

Your case is RETURNED to NYSOH to make a redetermination of your daughter's eligibility for health insurance coverage, once you have updated your account and provided all required income documentation, effective January 1, 2016.

**Effective Date of this Decision:** June 8, 2016

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

Your daughter was conditionally eligible for CHP as of February 1, 2016, based on the information you provided in your December 25, 2015 application.

Your daughter's enrollment in her CHP plan was effective February 1, 2016, based on when you selected her plan for enrollment.

If you want NYSOH to determine whether your daughter was eligible for Medicaid and MMC, effective January 1, 2016, you must update your account and provide the following income documentation

- One month (4 consecutive weeks) of paystubs showing gross earnings;
- A termination letter or other letter from your former employer regarding the [REDACTED] you held in 2015 that you testified you no longer hold;
- Proof of the income from your investments, which you testified to at the hearing
- Documentation of any other income that your household receives.

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You must update your account and provide this documentation within thirty (30) days of the date of this decision.

Once you update your account and provide this documentation, NYSOH will redetermine your daughter's eligibility.

If you fail to update your account, your daughter will remain eligible for CHP, effective February 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.

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

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## Summary

The December 26, 2015 eligibility determination is AFFIRMED in part, insofar as it states that your daughter's eligibility for CHP coverage began on February 1, 2016.

The December 26, 2015 eligibility determination is MODIFIED in part to state that your daughter is conditionally eligible for CHP, pending verification of your household's income.

You are directed to update your NYSOH account and provide income documentation as outlined above within thirty days of the date of this decision.

Your case is RETURNED to NYSOH to make a redetermination of your daughter's eligibility for health insurance coverage, once you have updated your account and provided all required income documentation, effective January 1, 2016.

Your daughter was conditionally eligible for CHP as of February 1, 2016, based on the information you provided in your December 25, 2015 application.

Your daughter's enrollment in her CHP plan was effective February 1, 2016, based on when you selected her plan for enrollment.

If you want NYSOH to determine whether your daughter was eligible for Medicaid and MMC, effective January 1, 2016, you must update your account and provide the following income documentation

- One month (4 consecutive weeks) of paystubs showing gross earnings;
- A termination letter or other letter from your former employer regarding the [REDACTED] you held in 2015 that you testified you no longer hold;
- Proof of the income from your investments, which you testified to at the hearing
- Documentation of any other income that your household receives.

You must update your account and provide this documentation within thirty (30) days of the date of this decision.

Once you update your account and provide this documentation, NYSOH will redetermine your daughter's eligibility.

If you fail to update your account, your daughter will remain eligible for CHP, effective February 1, 2016.

## **Legal Authority**

We are issuing this determination in accordance with 45 CFR § 155.545.

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

