



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

Notice of Decision

Decision Date: June 10, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006464

[REDACTED]

Dear [REDACTED],

On May 23, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's October 23, 2015 enrollment confirmation notice and December 4, 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 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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DEPARTMENT OF HEALTH
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Decision

Decision Date: June 10, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006464



Issues

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

Did NY State of Health properly determine that your children's enrollment in their Child Health Plus plan was effective December 1, 2015?

Did NY State of Health properly determine that you and your spouse were eligible to enroll in the Essential Plan with a monthly premium of \$20.00 each, effective January 1, 2016?

Did NY State of Health properly determine that you were not eligible for Medicaid, as of December 3, 2015?

Did NY State of Health properly determine that your children were eligible for Child Health Plus with a monthly premium of \$9.00 each, effective January 1, 2016?

Did NY State of Health properly determine that your children were not eligible for Medicaid, as of December 3, 2015?

Procedural History

On December 1, 2014, NY State of Health (NYSOH) issued a notice of eligibility determination, based on your November 25, 2014 application, stating that your children were eligible for Medicaid, effective November 1, 2014. Your children were subsequently enrolled in a Medicaid Managed Care plan.

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On September 13, 2015, NYSOH issued a renewal notice that stated in part that your children now qualified for coverage under Child Health Plus (CHP) with no monthly premium, effective November 1, 2015. The notice also stated that your children could not be re-enrolled in their current plan, and needed to select a new health plan for coverage.

On October 17, 2015, NYSOH issued a disenrollment notice stating that your children's coverage in their Medicaid Managed Care plan was ending effective October 31, 2015.

Also on October 17, 2015, NYSOH issued an enrollment confirmation notice confirming your and your spouse's enrollment in a qualified health plan, and stating that your children's CHP coverage would not begin until you picked a health plan for them.

On October 23, 2015, NYSOH issued an enrollment confirmation notice confirming your children's enrollment in a CHP plan as of October 22, 2015, with coverage beginning on December 1, 2015.

On November 7, 2015, NYSOH issued a notice that it was time to renew your family's health insurance for 2016. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether your family would qualify for financial help paying for health coverage, and that you needed to update your account by December 15, 2015 or your family might lose the financial assistance it was currently receiving.

On December 3, 2015, NYSOH received your updated application for financial assistance.

On December 4, 2015, NYSOH issued an eligibility determination, based on the information in your December 3, 2015 application, stating that you and your spouse were eligible for enrollment in the Essential Plan, with a monthly premium of \$20.00 each, effective January 1, 2016. This notice also stated that your children were eligible to enroll in CHP, with a monthly premium of \$9.00 each, effective January 1, 2016.

On December 5, 2015, NYSOH issued a notice of enrollment, based on your plan selection on December 3, 2015, stating that your children were enrolled in a CHP plan, and that coverage would start on January 1, 2016. This notice also stated that you and your spouse were enrolled in an Essential Plan, and that coverage would start on January 1, 2016.

On January 25, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of the December 4, 2015 eligibility determination insofar as you and your family were not eligible for Medicaid.

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On May 23, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During the hearing, you stated that you were also appealing your son's gap in coverage for the month of November 2015. The record was developed during the hearing and left open at the end of the hearing for fifteen days so that you could submit paystubs showing your husband's gross income for the month of January 2016, and his gross income to date. On May 24, 2016, you faxed a two-page document to NYSOH Appeals Unit. The record is now closed.

Findings of Fact

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

- 1) You testified that you receive notices from NYSOH through regular mail.
- 2) You testified that you recalled receiving the September 13, 2015 renewal notice.
- 3) You testified that you do not recall when you picked a plan for your children after receiving the renewal notice.
- 4) You testified that you took your son to the emergency room in November 2015 and were not aware that he did not have coverage at the time.
- 5) You testified that you have an outstanding medical bill from your son's emergency room visit in November 2015.
- 6) You testified that you expect to file your 2016 taxes with a tax filing status of married filing jointly. You will claim two dependents on that tax return.
- 7) You are seeking insurance for yourself, your spouse, and your two children.
- 8) The application that was submitted on December 3, 2015, which requested financial assistance, listed annual household income of \$40,300.00, consisting of earned income from your spouse. You testified that you believe this amount was correct.
- 9) You testified that your husband is paid weekly.
- 10) You testified that you did not know what your husband's income was for the month of January 2016.

- 11) Your application states that you would not be taking any deductions on your 2016 tax return, and you testified that this was accurate, to the best of your knowledge.
- 12) Your application states that you live in Suffolk County.
- 13) You testified that you filed this appeal because you want your family to have coverage through Medicaid because you cannot afford the monthly premiums you currently have to pay.
- 14) After the hearing, you faxed a two-page document to NYSOH Appeals Unit on May 24, 2016. The document consisted of a cover sheet and a page with copies of three of your husband's 2016 paystubs as follows:
 - a. February 19, 2016 – gross pay of \$775.00
 - b. May 13, 2016 – gross pay of \$775.00
 - c. May 20, 2016 – gross pay of \$775.00, year-to-date gross of \$16,352.48.

This document is entered into the record as “Appellant’s Exhibit One.”

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)).

Child Health Plus

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).

Essential Plan

NYSOH must generally determine an applicant eligible for the Essential Plan, a basic health plan, if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable federal poverty level (FPL) or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is 64 years old or younger, (5) is a citizen or a lawfully present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR § 435.603(d)(4), 45 CFR § 155.305(e), NY Social Services Law § 369-gg(3), 42 USC § 18051).

In an analysis of Essential Plan eligibility, the determination is based on the FPL in effect on the first day of the benefit year for which coverage is requested (45 CFR § 155.300(a)). On the date of your application, that was the 2015 FPL, which is \$24,250.00 for a four-person household (80 Fed. Reg. 3236, 3237).

A person who has a household income greater than 150% of the FPL or below 200% of the FPL has a \$20.00 per month premium contribution (New York's Basic Health Plan Blueprint, as approved January 2016).

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)), NY Social Services Law § 366(1)(b)).

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 \$24,250.00 for a four-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).

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)).

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 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.

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)).

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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)).

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 \$24,250.00 for a four-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 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 13 ADM-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 \$24,250.00 for a four-person household (80 Fed. Reg. 3236, 3237).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your children’s enrollment in their CHP plan was effective December 1, 2015.

Your children were originally found eligible for Medicaid, effective November 1, 2014, and were subsequently enrolled into a Medicaid Managed Care plan.

Generally, NYSOH must redetermine a qualified individual's eligibility for Medicaid once every 12 months 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.

NYSOH's September 13, 2015 renewal notice stated that, based on information from state and federal data sources, your children were now eligible for coverage through CHP with no monthly premium, effective November 1, 2015. The notice also stated that your children could not be enrolled in their current health plan, and that you needed to select a plan for them.

Additionally, NYSOH sent you a notice on October 17, 2015 stating that your children’s coverage in their Medicaid Managed Care plan was ending as of October 31, 2015. That same day, NYSOH also sent you a notice informing you

that you needed to pick a plan in order for your children to have coverage through CHP.

You testified that you did receive the September 13, 2015 renewal notice, but that you did not remember when you selected a plan for your children. The record reflects that you did not make a plan selection until October 22, 2015.

The date on which a CHP plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected between the first day and fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected between the sixteenth day of the month and the end of the month goes into effect on the first day of the second following month.

Therefore, NYSOH's October 23, 2015 enrollment confirmation notice is AFFIRMED because it properly began your children's enrollment in their CHP plan on December 1, 2015.

The second issue under review is whether NYSOH properly determined that you and your spouse were eligible for the Essential Plan, with a \$20.00 monthly premium, effective January 1, 2016.

The application that was submitted on December 3, 2015 listed an annual household income of \$40,300.00, and the eligibility determination relied upon that information. You testified that you believe this information was correct. In addition, you submitted three paystubs after the hearing that show your husband is paid \$775.00 per week. Since \$775.00 times 52 (weeks in a year) is \$40,300.00, the documentation supports the amount of income attested to in your application (Appellant's Exhibit One).

You are in a four-person household. You expect to file your 2016 income taxes as married filing jointly and will claim two dependents on that tax return.

The Essential Plan is provided through NYSOH to individuals who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is between 138% and 200% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$24,250.00 for a four-person household.

Since an annual household income of \$40,300.00 is 166.19% of the 2015 FPL, NYSOH properly found you to be eligible for the Essential Plan.

The third issue under review is whether NYSOH properly determined that you and your spouse were not eligible for Medicaid as of your December 3, 2015 application.

Medicaid can be provided through NYSOH to adults between the ages of 19 and 65 who meet the non-financial requirements and have a household modified adjusted gross income that is at or below 138% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$24,250.00 for a four-person household. Since \$40,300.00 is 166.19% of the 2015 FPL, NYSOH properly found you and your spouse to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

However, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. The Hearing Officer directed you to submit proof of your husband's income for the month of January 2016 in order to review whether you and your husband might be eligible for Medicaid on a monthly income basis.

You did not submit paystubs for the month of January 2016, but instead submitted three paystubs from February 19, 2016, May 13, 2016, and May 20, 2016. Therefore, your eligibility for Medicaid on a monthly income basis cannot be determined at this time.

Since the December 4, 2015 eligibility determination properly stated that, based on the information you provided, you and your spouse were eligible for the Essential Plan, effective January 1, 2016, it was correct and is AFFIRMED.

The fourth issue under review is whether NYSOH properly determined that your children were eligible to enroll in CHP with a \$9.00 per month premium, effective January 1, 2016.

According to the record, you expect to file a joint federal income tax return for the 2016 tax year and claim your children as dependents. Therefore, your children are in a four-person household.

On your December 3, 2015 application, you attested to an expected household income of \$40,300.00 and, as stated above, the documentation you submitted after the hearing supports this attestation. The application also stated that your children are one and three.

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 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 \$24,450.00 for a four-person household. Since \$24,450.00 is 166.19% of the 2015 FPL, NYSOH properly found your children to be eligible for CHP with a \$9.00 per month premium payment.

The fifth and final issue under review is whether NYSOH properly determined that your children are not eligible for Medicaid as of your December 3, 2015 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 modified adjusted gross income (MAGI) that is at or below 154% of the FPL for the applicable family size. Since \$40,300.00 is 166.19% of the 2015 FPL for a four-person household, NYSOH properly found your children to be ineligible for Medicaid.

Since the December 4, 2015 eligibility determination properly stated that, based on the information you provided, your children were eligible for CHP with a \$9.00 per month premium, and ineligible for Medicaid, it is correct and is AFFIRMED.

Decision

The October 23, 2015 enrollment confirmation notice is AFFIRMED.

The December 4, 2015 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: June 10, 2016

How this Decision Affects Your Eligibility

Your children's enrollment in their CHP plan began on December 1, 2015, based on your October 22, 2015 plan selection.

You and your spouse were not eligible for Medicaid as of your December 3, 2015 application.

You and your spouse are eligible for the Essential Plan with a \$20.00 monthly premium, effective January 1, 2016.

Your children were not eligible for Medicaid as of your December 3, 2015 application.

Your children are eligible for CHP with a monthly premium of \$9.00, effective January 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

Summary

The October 23, 2015 enrollment confirmation notice is AFFIRMED.

The December 4, 2015 eligibility determination notice is AFFIRMED.

Your children's enrollment in their CHP plan began on December 1, 2015, based on your October 22, 2015 plan selection.

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You and your spouse were not eligible for Medicaid as of your December 3, 2015 application.

You and your spouse are eligible for the Essential Plan with a \$20.00 monthly premium, effective January 1, 2016.

Your children were not eligible for Medicaid as of your December 3, 2015 application.

Your children are eligible for CHP with a monthly premium of \$9.00, effective January 1, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

