



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

Notice of Decision

Decision Date: June 21, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006473

[REDACTED]

Dear [REDACTED],

On June 16, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's January 27, 2016 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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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000006473

[REDACTED]

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 you were eligible to enroll in the Essential Plan at a premium of \$20.00 per month, effective March 1, 2016?

Did NYSOH properly determine that your daughter was eligible to enroll in Child Health Plus with a \$9.00 per month premium, effective March 1, 2016?

Did NYSOH properly determine that you and your daughter were not eligible for Medicaid?

Procedural History

On March 21, 2015, NYSOH issued an eligibility determination notice stating that both you and your daughter were eligible for Medicaid, effective March 1, 2015. The notice further stated that your eligibility was conditional pending receipt of documentation to provide “[i]nformation about good cause or information about absent parent” before June 18, 2015.

On January 15, 2016, NYSOH issued a notice that it was time to renew health insurance for both you and your daughter. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether you and your daughter would qualify for financial help paying for her health coverage, and that you needed to update your account by February

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15, 2016 or you and your daughter might lose the financial assistance currently being received.

On January 26, 2016, NYSOH received your updated application for financial assistance, in which you attested to an annual household income of \$25,974.00. Based on the information contained in this application, NYSOH prepared a preliminary eligibility determination stating that you were eligible for the Essential Plan at a premium rate of \$20.00 per month, effective March 1, 2016. It also stated that your daughter was eligible for Child Health Plus (CHP) with a premium rate of \$9.00 per month, though did not provide a proposed start date of coverage.

Also on January 26, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as you and your daughter were not found eligible for Medicaid.

On January 27, 2016, NYSOH issued an eligibility determination notice based on the January 26, 2016 application, stating that you were eligible to enroll in the Essential Plan at a premium rate of \$20.00 per month, effective March 1, 2016. The notice also stated that your daughter was found eligible for coverage through CHP at \$9.00 per month, also effective as of March 1, 2016. Finally, the notice stated that neither you nor your daughter were eligible for Medicaid.

Also on January 27, 2016, NYSOH issued a disenrollment notice stating that coverage for you and your daughter under MVP Health Plan, Inc. as the Medicaid Managed Care (MMC) plan would end effective February 29, 2016.

On June 16, 2016, you had a telephone hearing with a Hearing Officer from NYSOH'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: all earning statements you received from your employer, [REDACTED] during the month of January 2016. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

That same day, you provided two earning statement to the NYSOH Appeals Unit through facsimile.

Accordingly, the record was closed on June 16, 2016.

Findings of Fact

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

- 1) You testified that you expect to file your 2016 taxes with a tax filing status of head of household. You will claim your daughter as a dependent on that tax return.
- 2) You are seeking insurance for both yourself and your daughter.
- 3) As of the January 26, 2016 application, your daughter was six years old.
- 4) The application that was submitted on January 26, 2016, which requested financial assistance, listed an annual household income of \$25,974.00, which is derived from your earning rate of \$13.50 per hour over a 37 hour work week throughout a 52 week year. You testified that this amount was reasonably correct, with minor variations based on some overtime pay.
- 5) On June 16, 2016, you provided two earnings statements reflecting that you received from your employer, [REDACTED] (1) \$1,016.39 on January 15, 2016 and (2) \$962.90 on January 29, 2016. Each amount was reduced as a result of a pre-tax deduction related to the contribution of funds into Deferred Compensation 401K plan.
- 6) You testified that you were seeking for both yourself and your daughter to be reinstated in your MMC plan or, in the alternative, to be assessed a lower or no premium for your respective health plans.
- 7) You live in Orange County, New York.

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

Applicable Law and Regulations

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

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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 \$11,770.00 for a one-person household (80 Federal Register 3236, 3237).

A person who has a household income that is at or below 150% of the FPL has a \$0.00 premium contribution (New York's Basic Health Plan Blueprint, p. 21, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

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).

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)).

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)).

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)).

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)).

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 \$15,930.00 for a two-person household (80 Federal Register 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

The first issue under review is whether NYSOH properly determined that you were eligible for the Essential Plan at a premium rate of \$20.00 per month, effective March 1, 2016.

The application that was submitted on January 26, 2016 listed an annual household income of \$25,974.00, which was derived from your earning rate of \$13.50 per hour over a 37 hour work week throughout a 52-week year. The application also stated that your daughter was six years old. The eligibility determination relied upon that information.

You are in a two-person household. You expect to file your 2016 income taxes as head of household and will claim your daughter as your sole dependent 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

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(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 \$15,930.00 for a two-person household. Since an annual household income of \$25,974.00 is 163.05% of the 2015 FPL, NYSOH properly found you to be eligible for the Essential Plan at a premium rate of \$20.00 per month.

The second issue under review is whether NYSOH properly determined that your daughter was eligible to enroll in Child Health Plus with a \$9.00 per month premium.

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 Child Health Plus premium payment. On the date of your application, the relevant FPL was \$15,930.00 for a two-person household. Since \$25,974.00 is 163.05% of the 2015 FPL NYSOH properly found your child to be eligible for Child Health Plus with a \$9.00 per month premium payment.

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

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% and 154% in the case of your six year old daughter, of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$15,930.00 for a two-person household. Since \$25,974.00 is 163.05% of the 2015 FPL, NYSOH properly found you and your daughter to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

Since the January 27, 2016 eligibility determination properly stated that, based on the information you provided, you were eligible for the Essential Plan at \$20.00 per month, your daughter was eligible to enroll in CHP at \$9.00 per month, and each of you were ineligible for Medicaid, it is correct and is **AFFIRMED**.

However, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

On June 16, 2016, you submitted two earnings statements issued by your employer, [REDACTED] reflecting that during the month of January 2016 you received \$1,979.29.

To be eligible for Medicaid, you would need to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$1,832.00 per month. Similarly, your daughter would need to meet the non-financial criteria and have an income no greater than 154% of the FPL, which is \$2,044.00. Since the documentation you provided shows that you earned \$1,979.29 during January 2016 you do not qualify for Medicaid on the basis of monthly income as of the date of your application.

However, your daughter may be found eligible for Medicaid on the basis of monthly income as of the date of your application.

Since the record now contains a more accurate representation of what your monthly household income is, your case is RETURNED to NYSOH to redetermine your daughter's eligibility for 2016 coverage based on a two-person household, residing in Orange County with an monthly household income of \$1,979.29.

Decision

The January 27, 2016 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to redetermine your daughter's eligibility for 2016 coverage based on a two-person household, residing in Orange County with a monthly household income of \$1,979.29.

Effective Date of this Decision: June 21, 2016

How this Decision Affects Your Eligibility

You remain eligible for the Essential Plan at a premium rate of \$20.00 per month.

Your case is being sent back to NYSOH to redetermine your daughter's eligibility for 2016 coverage based on the information you provided during your hearing.

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

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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 January 27, 2016 eligibility determination notice is AFFIRMED.

Your case is RETURNED to NYSOH to redetermine your daughter's eligibility for 2016 coverage based on a two-person household, residing in Orange County with a monthly household income of \$1,979.29.

You remain eligible for the Essential Plan at a premium rate of \$20.00 per month.

Your case is being sent back to NYSOH to redetermine your daughter's eligibility for 2016 coverage based on the information you provided during your hearing.

Legal Authority

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A Copy of this Decision Has Been Provided To:

