



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

## Notice of Decision

Decision Date: September 26, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007472

[REDACTED]

Dear [REDACTED],

On September 21, 2016 you appeared by telephone at a hearing on your appeal of NY State of Health's February 14, 2016 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 NY State of Health 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: September 26, 2016

NY State of Health Account ID: [REDACTED]  
Appeal Identification Number: AP000000007472



## 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 and your spouse were eligible to enroll in the Essential Plan effective March 1, 2016?

Did NYSOH properly determine that your son was eligible to enroll in Child Health Plus effective March 1, 2016?

Did NYSOH properly determine that you, your spouse, and your son were not eligible for Medicaid, as of February 29, 2016?

## Procedural History

On February 13, 2016, NYSOH received your updated application for financial assistance.

On February 14, 2016, NYSOH issued an eligibility determination based on the February 13, 2016 application, stating that you and your wife were eligible to enroll in the Essential Plan, effective March 1, 2016 and that your son was eligible to enroll in Child Health Plus, effective March 1, 2016. It further stated that you, your wife and your son were no longer eligible for Medicaid as of February 29, 2016.

On February 27, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as you, your wife and your son were not eligible for Medicaid.

On September 21, 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 supports the following findings of fact:

- 1) You testified that you and your wife expect to file your 2016 taxes with a tax filing status of married filing jointly. You will claim one dependent on that tax return.
- 2) You are seeking Medicaid for yourself, your wife and your son.
- 3) The application that was submitted on February 13, 2016, which requested financial assistance, listed annual household income of \$34,144.76 consisting of \$34,144.76 your wife earns from your employment. You testified that this amount was correct.
- 4) Your application states that you will not be taking any deductions on your 2016 tax return.
- 5) Your application states that you live in Richmond County.

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 present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR

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§ 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 \$20,090.00 for a three-person household (80 Fed. Reg. 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).

The Essential Plan is considered minimum essential coverage therefore, a person who is eligible for the Essential Plan is not eligible for any premium tax credit because they are eligible for minimum essential coverage through the individual market (see 26 CFR § 1.36B-2(c)(1), 26 USC § 5000A(f)(1)(C)).

### 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 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 (PHL Law 2511 (2)(b)).

Effective January 1, 2014, the State must apply the financial methodologies used to determine Medicaid when determining financial eligibility of all individuals for CHP (45 CFR § 457.315). The State may elect in its State Plan to base financial eligibility either on current monthly household income and family size or income based on projected annual income and family size for the remainder of the calendar year (42 CFR § 435.603). 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 2016 FPL, which is \$20,160.00 for a three-person household (80 Fed. Reg. 3236, 3237).

A child who has a household income greater than 138% of the FPL or below 159% of the FPL has a \$0.00 per month premium contribution (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)).

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## 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 2016 FPL, which is \$20,160.00 for a three-person household (81 Fed. Reg. 4036).

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).

## 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).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that you and your wife were eligible for the Essential Plan, effective March 1, 2016.

The application that was submitted on February 13, 2016 listed an annual household income of \$34,144.76 and the eligibility determination relied upon that information. You testified that at the time of your application that information was correct.

You are in a three-person household. You expect to file your 2016 income taxes as married filing jointly and will claim one 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 (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 \$20,090 for a three-person household. Since an annual household income of \$34,144.76 is 169.96% of the 2015 FPL, NYSOH properly found you to be eligible for the Essential Plan.

The second issue is whether NYSOH properly determined that your son was eligible for Child Health Plus, effective March 1, 2016.

Child Health Plus is provided through NYSOH to individuals who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is below 400% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$20,160.00, for a three-person household. Since an annual household income of \$34,144.76 is 169.37% of the 2016 FPL, NYSOH properly found your son to be eligible for Child Health Plus.

The third issue is whether NYSOH properly determined that you, your wife and your son were not eligible for Medicaid, effective February 29, 2016.

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 \$20,160.00 for a three-person household. Since \$34,144.76 is 169.37% of the 2016 FPL, NYSOH properly found you and your wife to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application and your testimony.

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 \$34,144.76 is 169.37% of the 2016 FPL for a three-person household NYSOH properly found your son to be not eligible for Medicaid.

Since the February 14, 2016 eligibility determination properly stated that, based on the information you provided, you and your wife were eligible for the Essential Plan and your son was eligible for Child Health Plus, it was correct and is **AFFIRMED**.

## **Decision**

The February 24, 2016 eligibility determination notice is AFFIRMED.

**Effective Date of this Decision:** September 26, 2016

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

You and your wife remain eligible for the Essential Plan.

Your son remains eligible for Child Health Plus.

## **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 after 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

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- By fax: 1-855-900-5557

## **Summary**

The February 24, 2016 eligibility determination notice is AFFIRMED

You and your wife remain eligible for the Essential Plan.

Your son remains eligible for Child Health Plus.

## **Legal Authority**

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

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

