



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

Notice of Decision

Decision Date: October 12, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000007852

[REDACTED]

Dear [REDACTED],

On September 6, 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 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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Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NY State of Health (NYSOH) properly determine that your youngest child was eligible for Medicaid, effective February 1, 2016?

Did NYSOH properly determine that your youngest child was not eligible for Child Health Plus (CHP), as of February 13, 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 information in your February 13, 2016 application, stating that your youngest child remained eligible for Medicaid, effective February 1, 2016.

Also on February 14, 2016, NYSOH issued a notice of enrollment, based on your plan selection on February 13, 2016, stating that your youngest child was enrolled in a Medicaid Managed Care plan, and that coverage would start on March 1, 2016.

On March 10, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of the February 14, 2016 eligibility determination insofar as your youngest child was not eligible to enroll in coverage through CHP.

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On September 6, 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 for fifteen days so that you could submit proof of your current income. As of September 22, 2016, no documents have been submitted or uploaded to your NYSOH account. The record is now closed.

Findings of Fact

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

- 1) You testified that you are seeking for your youngest child to be found eligible for CHP instead of Medicaid.
- 2) You testified that your youngest child was born with a rare medical condition that requires treatment by several specialists.
- 3) You testified that the pediatrician you take your child to, whom you have known for 22 years, does not take any kind of Medicaid coverage.
- 4) You testified that, because your daughter's medical condition is rare, you have to be able to choose doctors who understand it, and cannot pick a doctor at random.
- 5) You testified that your youngest child needs testing that you have not been able to have done, and that you have been paying out of pocket for other expenses for your daughter.
- 6) You testified that you want your daughter to be removed from Medicaid and put into CHP coverage so that she can see the doctors she needs to see.
- 7) The application that was submitted on February 13, 2016, which requested financial assistance, listed annual household income of \$18,850.00, consisting of your earned income.
- 8) You testified that you believe this amount is no longer correct because you are now working two jobs, and that you believe that your income will be closer to \$42,000.00 this year.
- 9) You testified that you have not changed your expected annual income in your application because you have not earned the income yet.
- 10) You testified that both of your jobs are 1099 jobs.

- 11) The record was left open at the end of the hearing until September 21, 2016 so that you could submit letters from these employers. No documentation was uploaded to your account as of September 22, 2016.
- 12) Your application reflects that you will file your 2016 income tax return as married, filing jointly. You expect to claim two dependents on your tax return.
- 13) Your application states that you live in Queens County.

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

Applicable Law and Regulations

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 Federal Poverty Level (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 2016 FPL, which was \$24,300.00 for a four-person household (81 Federal Register 4036).

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.

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 \$24,300.00 for a four-person household (81 Federal Register 4036).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your youngest child was eligible for Medicaid, effective February 1, 2016.

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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.

The application you submitted on February 13, 2016 listed an expected annual household income of \$18,850.00, and the February 14, 2016 eligibility determination relied on this information. Since \$18,850.00 is 77.57% of the 2016 FPL for a four-person household, NYSOH properly found your youngest child to be eligible for Medicaid.

You testified at the hearing that you now expect your annual income to be somewhere closer to \$42,000.00. You testified that you had not changed the information in your application to reflect this because you have not yet earned this new amount. The record was left open at the end of the hearing so that you could submit income information, however, you did not submit any income documentation after the hearing. Since you did not update the information in your application or submit any documentation to show that the income information in your application was not correct, the decision must rely on the income stated in the application.

The second issue under review is whether NYSOH properly determined that your youngest child was not eligible to enroll in CHP, as of your February 13, 2016 application.

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).

Since your youngest child is eligible for Medicaid, by law, she cannot be eligible to enroll in CHP.

Though you credibly testified that you are having difficulty getting your child the care she needs with her Medicaid coverage, your child's eligibility is determined based on the income information you provided in your application, which shows that she is eligible for Medicaid. As such, she cannot be enrolled in CHP.

Since the February 14, 2016 eligibility determination properly stated that, based on the information you provided, your youngest child is eligible for Medicaid, it is correct and is AFFIRMED.

When you renew your daughter's application for health coverage at the end of her coverage year, you can update your income information so that an appropriate eligible determination can be made based on your expected annual income at that time.

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Decision

The February 14, 2016 eligibility determination is AFFIRMED.

Effective Date of this Decision: October 12, 2016

How this Decision Affects Your Eligibility

Your youngest child is eligible for Medicaid, effective February 1, 2016.

Your youngest child was not eligible for CHP as of your February 13, 2016 application.

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 February 14, 2016 eligibility determination is AFFIRMED.

Your youngest child is eligible for Medicaid, effective February 1, 2016.

Your youngest child was not eligible for CHP as of your February 13, 2016 application.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

