



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

## Notice of Decision

Decision Date: October 18, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP00000008455

[REDACTED]

Dear [REDACTED],

On October 5, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 30, 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 at the top of this notice.

### Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(b).

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: October 18, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP00000008455



## 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 you were not owed any premium reimbursements for payments made to your newborn child's Child Health Plus plan?

## Procedural History

On March 29, 2016, NYSOH received your updated application for financial assistance for your newborn child.

That same day a preliminary eligibility determination notice was issued finding your newborn child conditionally eligible to enroll in the Child Health Plus for a cost of \$60.00 per month effective May 1, 2016. His eligibility was based on the condition that you provide documentation to confirm his citizenship status and Social Security number by June 27, 2016.

That same day you contacted the NYSOH Account Review Unit and requested an appeal of the start date of your child's Child Health Plus plan, asking that the birth of your child be covered, and for his coverage under Child Health Plus to begin April 1, 2016.

On April 2, 2016, an enrollment confirmation notice was issued confirming your newborn child's enrollment in a Child Health Plus plan effective May 1, 2016.

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On June 4, 2016, a disenrollment notice was issued terminating your newborn child's Child Health Plus plan effective June 30, 2016.

That same day an eligibility determination notice was issued finding your newborn son eligible for Medicaid effective March 1, 2016.

Also on that same day an enrollment confirmation notice was issued confirming your child's enrollment in a Medicaid Managed Care plan effective March 1, 2016.

On October 5, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. During your telephone hearing you testified that you are now seeking reimbursement for premium payments made to your Child Health Plus plan for the months of May, and June, 2016. 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 are seeking insurance for your newborn child.
- 2) Your child was born on [REDACTED].
- 3) Your application states you will be filing your 2016 taxes as married filing jointly and will claim your two children as dependents on those taxes.
- 4) The record reflects your newborn child was determined eligible for Medicaid and enrolled in a Medicaid Managed Care plan effective March 1, 2016 to cover the date of his birth.
- 5) You testified you are now seeking to be reimbursed premium payments made to your newborn child's Child Health Plus plan for the months he was enrolled for May, 2016, and June 2016.
- 6) You testified that you were enrolled in a Medicaid Managed Care plan at the time of your child's birth.
- 7) Your child's enrollment in Child Health Plus ended on June 30, 2016.
- 8) The record reflects an incident was filed with NYSOH [REDACTED] on August 1, 2016, in which you requested your Child Health Plus premium payments be reimbursed. The note in the NYSOH account on this incident states that the plan is telling NYSOH that the coverage for your child was

May 1, 2016 through June 30, 2016, but there was no credit on the account to be refunded.

9) You currently reside in Kings, County.

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

## **Applicable Law and Regulations**

### Appealable Issues

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination 45 CFR § 155.505; and (5) a denial of a request for a special enrollment period (45 CFR § 155.505(b)(1)(iii), 45 CFR § 155.305(b), and 45 CFR § 155.420(d)).

### Medicaid Pregnant Woman

Medicaid can be provided through the 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)), N.Y. Soc. Serv. Law § 366(1)(b)).

In New York, a pregnant woman is eligible for Medicaid at a household income of 223% of the federal poverty level (FPL) (42 CFR §435.116 (c)(2); NY Department of Social Services Administrative Directive 13ADM-03).

“Family size” means the number of persons counted as members of an individual’s household. The household of a taxpayer who expects to file a return, and does not expect to be claimed as a tax dependent by anyone else, consists of the taxpayer plus all people the taxpayer expects to claim as tax dependents (42 CFR § 435.603(f)(1)).

For purposes of Medicaid eligibility, the family size of a pregnant woman includes the pregnant woman and the number of children she expects to deliver (42 CFR

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§ 435.603(b); State Plan Amendment (SPA) 13-0055-MM3, as approved by the US Department of Health and Human Services, March 19, 2014).

### Medicaid Newborn Child

A child who is under one year of age 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 223% of the FPL for the applicable family size (42 CFR § 435.118(c); New York Department of Social Services Administrative Directive 13ADM-03).

NYSOH must provide Medicaid eligibility to a child born to a woman who has applied for, has been determined eligible for, and is receiving Medicaid on the date of the child's birth. The child is deemed to have applied and been found eligible for Medicaid on the date of birth and remains eligible for one year so long as the woman remains (or would remain if pregnant) eligible and the child is a member of the woman's household (42 CFR § 435.117(a); NY Social Services Law § 366-g(3)). An annual redetermination of eligibility must be completed on behalf of the child at which time documentary evidence of citizenship and Social Security number is required (42 CFR § 435.117(d), § 435.920).

## **Legal Analysis**

The issue under review is whether NYSOH properly determined that you were not owed any premium reimbursements for payments made to your newborn child's Child Health Plus plan.

Your child was born on [REDACTED]. You then updated your application with NYSOH on March 29, 2016 to add him. The record reflects that at the time, you were enrolled in a Medicaid Managed Care plan at the time of his birth.

On March 29, 2016, preliminary eligibility determination notice was made finding your newborn child conditionally eligible to enroll in the Child Health Plus for a cost of \$60.00 per month effective May 1, 2016. He was subsequently enrolled in a Child Health Plus plan effective May 1, 2016. You then appealed to NYSOH to have your child's birth be covered, and enrolled in Medicaid as you were at the time of his birth. NYSOH complied with this request and your newborn child was determined eligible for Medicaid and enrolled in a Medicaid Managed Care plan effective March 1, 2016 to cover the date of his birth.

During your telephone hearing you testified that you are now seeking to be reimbursed for premium payments made to your newborn son's Child Health Plus plan for the months he was enrolled, May, and June, 2016.

The record reflects an incident was filed with NYSOH [REDACTED] on August 1, 2016, in which you requested your Child Health Plus premium payments be reimbursed. The note in the NYSOH account on this incident states that the plan is telling NYSOH that the coverage for your child was May 1, 2016 through June 30, 2016, but there was no credit on the account to be refunded.

Your appeal was requested to dispute the return of premium payments made to your Child Health Plus plan for the months of May, and June, 2016. This issue relates to payment of premiums which is not an issue that the NY State of Health Appeals Unit is authorized to address. Therefore, we must dismiss your appeal on this issue.

However, it is clear from the record that there was an enrollment for your child processed for two months with a Child Health Plus plan. Therefore, we are RETURNING your case to NYSOH's Plan Management Unit to further investigate.

## **Decision**

Your appeal on the return of premium payments for your son's Child Health Plus plan is DISMISSED.

We are RETURNING your case to NYSOH's plan management unit to investigate the issue further.

**Effective Date of this Decision:** October 18, 2016

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

This decision does not change your current child's eligibility for or enrollment in his Medicaid Managed Care plan. His eligibility is effective March 1, 2016.

It does return your case to NYSOH's Plan Management Unit to further investigate the issue.

You may have additional options outside of the Appeals Unit of New York State of Health, such as through your plan or through the Department of Financial Services.

## **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 date 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 date 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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Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

Your appeal on the return of premium payments for your son's Child Health Plus plan is **DISMISSED**.

We are **RETURNING** your case to NYSOH's plan management unit to investigate the issue further.

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It does return your case to NYSOH's Plan Management Unit to further investigate the issue.

You may have additional options outside of the Appeals Unit of New York State of Health, such as through your plan or through the Department of Financial Services.

### **Legal Authority**

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(a).

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

