



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

Notice of Decision

Decision Date: November 1, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008876

[REDACTED]

Dear [REDACTED]

On October 24, 2016, your spouse appeared by telephone at a hearing on your appeal of NY State of Health's April 13, 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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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008876

[REDACTED]

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 ward was eligible for Medicaid, effective April 1, 2016?

Did NYSOH properly determine that your ward was not eligible for Child Health Plus (CHP), as of April 13, 2016?

Procedural History

On April 13, 2016, NYSOH received your applications for health insurance and financial assistance for your ward. That day, NYSOH prepared preliminary eligibility determinations stating that your ward, [REDACTED] was eligible for Medicaid, effective April 1, 2016.

Also on April 13, 2016, you spoke with NYSOH's Account Review Unit and requested an appeal of that preliminary eligibility determination insofar as your ward was eligible for Medicaid and not CHP.

On April 14, 2016, NYSOH issued an eligibility determination, based on the information in your February 13, 2016 application, stating that your ward remained eligible for Medicaid, effective April 1, 2016.

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

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On October 24, 2016, your spouse 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) Your spouse testified that you filed this appeal because you wanted to be sure that your ward is actually eligible for Medicaid, as your own daughter was found eligible for CHP.
- 2) Your spouse testified that you and she have legal custody over [REDACTED] that is shared with her biological mother, but that you and your spouse have sole physical custody.
- 3) Your spouse testified that this custody arrangement has been in place since July 2013.
- 4) Your spouse testified that neither of you are related to [REDACTED] in any way, nor do you plan to adopt her.
- 5) Your spouse testified that [REDACTED] biological mother does provide any financial contribution for her care.
- 6) The application that was submitted on April 13, 2016, which requested financial assistance, listed your gross annual household income as \$61,982.59, consisting of your earned income and your spouse's earned income. You testified that this amount is still correct.
- 7) The application that was submitted on April 13, 2016 shows no income for [REDACTED]
- 8) Your application reflects that you will file your 2016 income tax return as married, filing jointly and will claim your daughter and your ward as dependents. Your spouse testified that this is correct.
- 9) Your application states that you live in Chenango 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 \$11,880.00 for a one-person household (81 Federal Register 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). Family size equals the number of individuals for whom the taxpayer is allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

Household Size

The household of an individual who is claimed as a tax dependent is the same as the household of the taxpayer claiming that dependent (42 CFR § 435.603(f)(2)). However, for an individual under nineteen who is not a spouse or biological, adopted, or step child of the taxpayer but expects to be claimed as a tax dependent by that taxpayer, the individual's household includes the individual and the individual's natural, adopted and step parents and natural, adoptive and step siblings. (42 CFR § 435.603(2), (3)).

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 ward was eligible for Medicaid, effective April 1, 2016.

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.

Household income for Medicaid is determined by looking at the income of those individuals who must be counted in the applicant's household. The household of an individual under the age of nineteen who expects to be claimed as a tax dependent, but who is not the spouse, child, step child, or adopted child of the taxpayer, includes the individual's natural, adoptive or step parents and natural, adoptive, or step siblings, if living with the individual.

In this case, your ward is under nineteen, and although she is your tax dependent, she is not your spouse or biological, adopted, or step child. Since there is no one living with your ward who can be described as her natural, adoptive, or step parent, and no one who can be described as her natural, adoptive, or step sibling, she is in a household of one, consisting only of herself.

The application you submitted on April 13, 2016 listed an expected annual income of \$0.00 for your ward, and the February 14, 2016 eligibility determination relied on this information. Since \$0.00 is 0% of the 2016 FPL for a one-person household, NYSOH properly found your ward to be eligible for Medicaid.

The second issue under review is whether NYSOH properly determined that your ward was not eligible to enroll in CHP, as of your April 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 ward is eligible for Medicaid, by law, she cannot be eligible to enroll in CHP.

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

Decision

The April 14, 2016 eligibility determination is AFFIRMED.

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).

Effective Date of this Decision: November 1, 2016

How this Decision Affects Your Eligibility

Your ward is eligible for Medicaid, effective April 1, 2016.

Your ward was not eligible for CHP as of your April 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 April 14, 2016 eligibility determination is AFFIRMED.

Your ward is eligible for Medicaid, effective April 1, 2016.

Your ward was not eligible for CHP as of your April 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:

