



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

Notice of Decision

Decision Date: November 22, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000009872

[REDACTED]

Dear [REDACTED],

On November 14, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's May 25, 2016 eligibility determination and disenrollment notices.

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.

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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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 your child was no longer eligible to remain enrolled in Child Health Plus, effective June 30, 2016?

Did NYSOH properly determine that your child was eligible for Medicaid, effective July 1, 2016?

Procedural History

On May 30, 2015, NYSOH issued an eligibility determination notice stating that your child was eligible to enroll in a Child Health Plus plan with a \$9.00 monthly premium, effective July 1, 2015.

Also on May 30, 2016, NYSOH issued a notice of enrollment confirmation stating that your child was enrolled in a Child Health Plus plan with a \$9.00 monthly premium, effective July 1, 2015.

On May 2, 2016, NYSOH issued a renewal notice, stating that it was time to renew your child's health insurance for the upcoming coverage year. That notice stated that, based on information from federal and state sources, NYSOH could not make a decision about whether your child would qualify for financial help paying for your health coverage, and that you needed to update your account by June 15, 2016 or your child might lose the financial assistance he was currently receiving.

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On May 24, 2016, NYSOH received your child's updated application for health insurance. That day, a preliminary eligibility determination was prepared finding your child eligible to enroll in Medicaid.

On May 24, 2016, you spoke to NYSOH's Account Review Unit and appealed the eligibility determination insofar as your child was found eligible for Medicaid and not Child Health Plus.

On May 25, 2016, NYSOH issued an eligibility redetermination notice, based on a May 24, 2016 application, stating that your son was eligible for Medicaid, effective July 1, 2016.

Also on May 25, 2016, NYSOH issued a disenrollment notice stating that your son was no longer eligible to remain in his Child Health Plus plan, effective June 30, 2016.

On November 14, 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 currently reside with your one child.
- 2) You testified that you will not be filing a tax return for the 2016 tax year because the income you expect to receive is from Social Security benefits and you are not required to file a tax return on that income.
- 3) Your account was updated on May 24, 2016, wherein the record reflects that an updated application for financial assistance was submitted.
- 4) The application listed annual household income of \$28,911.60. You testified that this amount consists of \$18,711.60, in income that you receive from Social Security disability benefits and \$10,200.00 in income your child receives from Social Security through your disability benefits.
- 5) You testified that your child does not expect to receive any other income from a job in 2016.
- 6) The May 24, 2016 application indicated your child was 17 years old.

- 7) You testified and the record reflects that you included similar income information on previous applications to NYSOH wherein your child was found eligible for Child Health Plus.
- 8) You testified and the record reflects that you called NYSOH on May 24, 2016 to report that you were attempting to update your NYSOH account for 2016 and the “system” would not accept your child’s income which resulted in your child being found eligible for Medicaid rather than Child Health Plus.
- 9) Your application states that you live in Cattaraugus 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 State Department of Social Services Administrative Directive 13 OHIP/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 \$16,020.00 for a 2-person household (81 Federal Register 4036).

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)).

Modified Adjusted Gross Income

NYSOH bases its eligibility determinations on modified adjusted gross income (MAGI) as defined in the federal tax code (45 CFR § 155.300(a), 42 CFR § 603(e), see 26 USC § 36B(d)(2)(B)).

For the purposes of determining a person's eligibility for financial assistance for health insurance through NYSOH, the term "MAGI" means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

The MAGI-based income of a child who is not required to file a tax return is not included in household income (42 CFR § 435.603(d)(2)).

A person is not required to file a tax return if their gross income is less than the sum of the exemption amount plus the basic standard deduction allowable for that person (26 USC § 6012(1)(A)). For the 2016 year, a dependent who had yearly gross earned income greater than \$6,300.00 or gross unearned income greater than \$1,050.00 would be required to file a tax return (see IRS Revenue Procedure 2014-61).

Unearned income is generally all income other than salaries, wages and other amounts received as pay for work actually performed, including the taxable part of Social Security and pension payments (IRS Publication 929, pg 15).

Social Security Benefits

For the purposes of determining the amount of taxable income a person receives from Social Security benefits, the IRS gives the term "modified adjusted gross income" the same definition as "adjusted gross income," without regard to certain income that is not relevant here (26 USC § 86(b)(2)). Please note that this definition is different than the definition of MAGI NYSOH uses.

"Adjusted gross income" means, in the case of an individual taxpayer, gross income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from savings accounts, and deductions attributable to royalties (26 USC § 62(a)).

"Gross income" is defined as all income from whatever source it is derived from; however, notwithstanding the apparent overall inclusiveness of this definition, there are numerous items that are specifically excluded from gross income (26 USC § 61).

An individual's income from Social Security benefits is included in their gross income only to the extent that the sum of the person's IRS-defined "modified adjusted gross income" and one-half of their Social Security benefits is greater than \$25,000.00 (26 USC § 86(a)(1), (b)(1)), (c)(1)(A))

Legal Analysis

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

The record establishes that you live in a two-person household consisting of you and your child. On May 24, 2016, your application listed an annual household income of \$28,911.60. You testified that this amount consists of \$18,711.60, in income that you receive from Social Security benefits and \$10,200 in income your child receives from Social Security benefits. You testified that your child does not expect to receive any additional income from a job in 2016.

Finally, you testified that you will not be filing a tax return for the 2016 tax year because the income you expect to receive is from Social Security benefits and you are not required to file a tax return on that income.

In order to determine an individual's eligibility for financial assistance, NYSOH must determine a household's modified adjusted gross income (MAGI). Generally, a household's MAGI includes the adjusted gross income of all individual's in that household and adds to it any relevant amount excluded from gross income, including foreign earned income and the cost of housing for the individual, interest received or accrued by the taxpayer during the taxable year which is exempt from tax, and an amount equal to the portion of the taxpayer's social security benefits which is not included in your gross income. A child or a dependent's income is not included in the household's MAGI if the child is not required to file a tax return.

A dependent will be required to file a tax return in 2016 when their unearned income is greater than \$1,050.00. Unearned income includes the taxable portion of Social Security benefits.

To determine if any portion of a person's Social Security benefit is taxable, the IRS adds one-half of a person's income from Social Security to any other income that person receives. Any amount in excess of \$25,000.00 is considered taxable income.

At the time of your application, your child was expected to received \$10,200.00 in income from Social Security disability/survivor benefits. Your child was not expected to receive any other income in 2016. Since, \$5,100.00 (one-half the amount of Social Security he/she receives) is less than \$25,000.00, your child has no taxable income from Social Security and is not required to file a tax return on the basis of unearned income. Therefore, the income your child receives from Social Security benefits is not included in your household's MAGI. To the extent the same was included in previous MAGI calculations was an error.

Since you are not a child or a tax dependent your Social Security income, regardless of the fact that you may not be required to file taxes on it, is still included in the household's income for the purposes of determining your and your child's eligibility for financial assistance through NYSOH. Therefore, your MAGI for your two-person household is \$18,711.60.

The record reflects that your child is 17 years old. 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 \$18,711.60 is 116.80% of the 2016 FPL for a two-person household, NYSOH properly found your child to be eligible for Medicaid.

Accordingly, the May 25, 2016 notice of eligibility determination stating that your child was eligible for Medicaid, effective July 1, 2016, is correct and is **AFFIRMED**.

The second issue under review is whether NYSOH properly determined that your child was no longer eligible to remain enrolled in Child Health Plus, effective June 30, 2016.

The record establishes that your application for financial assistance to NYSOH for 2016 was updated on May 24, 2016. As a result, your child was found eligible for Medicaid. Thereafter, NYSOH issued a disenrollment notice stating that your child was no longer eligible to remain in his current health plan, effective June 30, 2016.

Under New York State's Public Health Law, a Medicaid-eligible child does not qualify to enroll in health insurance through Child Health Plus. As your child was properly found eligible for Medicaid on May 24, 2016, as discussed above, he therefore was ineligible to remain enrolled in Child Health Plus and was properly disenrolled, effective June 30, 2016

Accordingly, the May 25, 2016 notice of disenrollment stating that your child was no longer eligible to remain in his Child Health plus plan, effective June 30, 2016, is correct and is **AFFIRMED**.

Decision

The May 25, 2016 eligibility determination notice is **AFFIRMED**.

The May 25, 2016 disenrollment notice is **AFFIRMED**.

Effective Date of this Decision: November 22, 2016

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).

How this Decision Affects Your Eligibility

Your child was properly found eligible for Medicaid.

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:
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P.O. Box 11729
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- By fax: 1-855-900-5557

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Summary

The May 25, 2016 eligibility determination notice is AFFIRMED.

The May 25, 2016 disenrollment notice is AFFIRMED

Your child was properly found eligible for Medicaid.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

