



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

Notice of Decision

Decision Date: November 30, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010006

[REDACTED]

Dear [REDACTED]

On November 16, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's March 26, 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 and the 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]
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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 properly determine that your two youngest children were eligible for Child Health Plus?

Did NY State of Health properly determine that your two youngest children were not eligible for Medicaid?

Procedural History

On March 26, 2016, (NY State of Health) NYSOH issued an eligibility determination notice based on the information contained in the March 25, 2016 application, stating that your two children were newly eligible for Child Health Plus with no monthly premium. Your children were not eligible for Medicaid because your household income was over the allowable limit.

Also on March 26, 2016, NYSOH issued an enrollment confirmation notice stating that your two children were enrolled in Child Health Plus, confirming that there was no monthly premium and that their coverage was effective May 1, 2016.

On May 31, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as your children were not eligible for Medicaid.

On November 16, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeal Unit. During the hearing Spanish Interpreter [REDACTED]

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interpreted. 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 expect to file your 2016 taxes with a tax filing status of head of household.
- 2) You testified that your three children reside with you.
- 3) You testified that you will be claiming your two youngest children as dependents on your 2016 tax return.
- 4) You testified that you would not be claiming your oldest child as a dependent on your 2016 tax return.
- 5) You are seeking Medicaid for your two youngest children.
- 6) The application that was submitted on March 25, 2016 listed an annual income of \$32,060.60 consisting of income you earn from employment.
- 7) You testified that you are a salaried employee and receive the same amount of income every two weeks.
- 8) You testified that you will not be taking any deductions on your 2016 tax return.
- 9) You testified that you live in New York County.
- 10) You testified that it is difficult for you to afford insurance premiums because of your living expenses.

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

Applicable Law and Regulations

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

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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)).

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.

The amount of the premium payment, if any, that must be made on behalf of a child who enrolls in CHP depends upon the child’s family household income (PHL § 2510(9)(d)). No payments are required for eligible children whose family household income is less than 160% of the FPL. If the family household income is 160% or higher, premiums range from \$9.00 per month to \$60.00 per month (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)).

The CHP premium is \$30.00 per month for a child whose family household income is between 251% and 300% of the FPL (PHL § 2510(9)(d)(iv)).

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 was \$20,160.00 for a three-person household. (81 Fed. Reg. 4036).

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).

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 was \$20,160.00 for a three-person household. (81 Fed. Reg. 4036).

Household Composition

Generally, a child who is claimed as a tax dependent by their custodial parent has the same household size as the parent that is claiming them (42 CFR § 435.603(f)(2)).

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Legal Analysis

The first issue under review is whether NYSOH properly determined that your two youngest children were eligible to enroll in Child Health Plus.

A child who is claimed as a tax dependent by their custodial parent has the same household size as the parent that is claiming them. Since you are claiming your two youngest children as dependents, they each have a household size of three people.

On your March 25, 2016 application, you attested to an expected household income of \$32,060.60.

A child is eligible to enroll in Child Health Plus 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). On the date of your application, the relevant FPL was \$20,160.00 for a three-person household. Since \$32,060.60 is 159.03% of the 2016 FPL for a three-person household, NYSOH properly found your children to be eligible for Child Health Plus.

The second issue under review is whether NYSOH properly determined that your children are not eligible for Medicaid.

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. On the date of your application, the relevant FPL was \$20,160.00 for a three-person household. Since \$32,060.60 is 159.03% of the 2016 FPL for a three-person household, NYSOH properly found your children to be ineligible for Medicaid.

Since the March 26, 2016 eligibility determination properly stated that, based on the information you provided, your children were eligible for Child Health Plus and ineligible for Medicaid, it is correct and is AFFIRMED.

During the hearing you testified that you did not claim one of your children on your 2015 individual tax return. You stated that you were not expecting to claim him on your 2016 income tax return. Please update your account if the number of dependents you are expecting to claim changes as it may have an effect on you and your children's eligibility. NYSOH will rerun your eligibility accordingly.

Decision

The March 26, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: November 30, 2016

How this Decision Affects Your Eligibility

Your children remain eligible for Child Health Plus.

Your children are ineligible 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

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- By mail at:
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Summary

The March 26, 2016 eligibility determination notice is AFFIRMED.

Your children remain eligible for Child Health Plus.

Your children are ineligible for Medicaid.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

