



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

Notice of Decision

Decision Date: March 7, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010196

[REDACTED]

Dear [REDACTED],

On February 24, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's June 11, 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.

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NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010196

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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 two youngest children were eligible to enroll in Child Health Plus with a \$15.00 per month premium, and your oldest child was eligible for a \$9.00 per month premium effective July 1, 2016?

Procedural History

On June 10, 2016, NYSOH received your application for health insurance. That same day a preliminary eligibility determination was made finding your eldest child eligible for Child Health Plus with a \$9.00 monthly premium, and your two youngest children eligible for Child Health Plus with a \$15.00 monthly premium effective July 1, 2016. You then enrolled your children in a Child Health Plus plan that day.

Also on June 10, 2016, you spoke to NYSOH's Account Review Unit and appealed the determination insofar as your children were eligible for two different Child Health Plus premium amounts.

On June 11, 2016, NYSOH issued an eligibility determination notice stating that your eldest child was eligible to enroll in Child Health Plus with a \$9.00 monthly premium, and your two younger children were eligible for a \$15.00 monthly premium effective July 1, 2016.

On June 11, 2016, NYSOH issued an enrollment confirmation notice confirming your children's enrollment in a Child Health Plus plan with a monthly premium responsibility of \$39.00 effective July 1, 2016.

On February 23, 2017, 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) Your June 10, 2016 application states you will be filing your taxes as Head of Household and will be claiming your two younger children as dependents. Your application further states your eldest child will be claimed as a dependent by your ex-spouse.
- 2) You testified that you filed your 2015 tax return with a tax filing status of Head of Household and claimed your two younger children as dependents on that tax return. Your ex-spouse claimed your eldest child as a dependent on his 2015 tax return.
- 3) You testified as of now for 2016, you will be claiming your two children as dependents, and your eldest child will be claimed as a dependent by your ex-spouse. You testified this may change based upon your appeal to Family Court.
- 4) You testified all three children reside with you.
- 5) You testified your ex-spouse does not reside with you.
- 6) You provided a Judgment of Divorce Decree from ██████████ County Supreme Court showing a file date of January 25, 2013. See Document ██████████.
- 7) The Judgment of Divorce Decree from ██████████ County that you provided shows that as long as you reside in the marital home, the parties shall divide tax exemption for the children so that your husband may take one child as a tax exemption and you will take two children as tax exemptions. (See Document ██████████ ██████████).
- 8) You testified you are seeking your children's eligibility be redetermined based on a four-person household size only, and that all three children be eligible for a \$9.00 per month premium amount.

- 9) The application that was submitted on June 10, 2016 listed annual household income of \$50,000.09, consisting of income you earn from your employment. You testified that this amount was correct, but may change.
- 10) Your application states that you will not be taking any deductions on your 2016 tax return, you testified that was correct.
- 11) You testified you are unsure of your ex-spouse's annual household income for 2016, you testified it may be approximately \$30,000.00.
- 12) At the time of your June 10, 2016 application, your eldest child was 16 years old, your two other children were 11 and 14.
- 13) Your application states that you live in ██████████ County.

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

Applicable Law and Regulations

Child Health Plus

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 New York Public Health Law (NY PHL) § 2510 et seq. and 42 USC § 1397aa). Eligibility rules are set out in NY PHL § 2511(2), as well as in the NYS Department of Health 2008-2012 Contract and Plan Manual.

A child who meets the eligibility requirements for 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) (NY 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 PHL § 2511(2)(b)).

The amount of the premium payment, if any, that must be made on behalf of a child who enrolls in a CHP plan depends upon the child's family household income (NY PHL § 2510(9)(d)). No payments are required for eligible children whose family household income is less than 160% of the FPL (NY PHL § 2510(9)(d)(1)). If the family household income is 160% or higher, premiums range from \$9.00 per month to \$60.00 per month (NY 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, but no more than \$27.00 per month per family (NY PHL § 2510(9)(d)(ii)).

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The CHP premium is \$15.00 per month for a child whose family household income is between 223% and 250% of the FPL, but no more than \$54.00 per month per family (NY PHL § 2510(9)(d)(iii)).

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

In the case where a child is claimed by a non-custodial parent, the child’s family includes the following persons, if living with the child: (1) the child’s parents, (2) the child’s spouse, (3) the child’s children and siblings under the age of 19, or 21 if a full-time student (42 CFR § 435.603(f)(2)(iii)).

Legal Analysis

The issue under review is whether NYSOH properly determined that your two youngest children were eligible to enroll in Child Health Plus (CHP) with a \$15.00 per month premium, and your oldest child was eligible for a \$9.00 per month premium effective July 1, 2016.

For purposes of determining eligibility for CHP, a determination of your children’s family size is necessary.

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. For your two younger children, their household size would be determined based on the same criteria as your own, since you claim two dependents, your household size would be three; yourself, and your two children. Therefore, your two younger children have a household size of three.

In the case where a child is claimed by a non-custodial parent, the child’s family includes the following persons, if living with the child: (1) the child’s parents, (2) the child’s spouse, (3) the child’s children and siblings under the age of 19, or 21 if a full-time student.

Since according to your Divorce Decree, your ex-spouse is able to claim your eldest daughter as a dependent, despite no longer residing within the marital household, her household size is determined to include both the parent residing with her, and her siblings residing with her. This would mean she would have a four-person household size.

In your June 10, 2016 application, you attested to an expected household income of \$50,000.09. The application also stated that your children were 11, 14, and 17 years old. NYSOH relied upon this information.

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). The CHP premium is \$9.00 per month for a child whose family household income is between 160% and 222% of the FPL. The CHP premium is \$15.00 per month for a child whose family household income is between 223% and 250% of the FPL.

On the date of your application, the relevant FPL was \$20,160.00 for a three-person household, and \$24,300.00 for a four-person household.

Since \$50,000.09 is 248% of the 2016 FPL for a three-person household, and 206% for a four-person household, NYSOH properly found your two younger children to be eligible for CHP with a \$15.00 per month premium payment, and your eldest child eligible for CHP with a \$9.00 per month premium payment.

Since the June 11, 2016 eligibility determination notice properly stated that, based on the information you provided, your two younger children were eligible for CHP with a \$15.00 per month premium and your eldest child was eligible for CHP with a \$9.00 per month premium, it is correct and is AFFIRMED.

Decision

The June 11, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: March 7, 2017

How this Decision Affects Your Eligibility

Your two younger children remain eligible for Child Health Plus with a \$15.00 per month premium.

Your eldest child remains eligible for Child Health Plus with a \$9.00 per month premium.

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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 June 11, 2016 eligibility determination notice is **AFFIRMED**.

Your two younger children remain eligible for Child Health Plus with a \$15.00 per month premium.

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Your eldest child remains eligible for Child Health Plus with a \$9.00 per month premium.

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A Copy of this Decision Has Been Provided To:

