



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

Notice of Decision

Decision Date: February 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010702

[REDACTED]

Dear [REDACTED],

On December 21, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health’s June 6, 2016 eligibility determination and the June 6, 2016 enrollment confirmation 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 NY State of Health 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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Decision Date: February 10, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010702

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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 child was eligible to enroll in a full price Child Health Plus plan, effective July 1, 2016?

Procedural History

On March 20, 2016, NYSOH issued an eligibility determination notice, based on your March 19, 2016 application, stating that your child was eligible to enroll in full price Child Health Plus (CHP) plan or a Child-Only qualified health plan, effective May 1, 2016.

Also on March 20, 2016, NYSOH issued a disenrollment notice that stated your child's CHP plan would end effective April 30, 2016. This was because your child was no longer eligible to remain in her current health insurance.

On April 1, 2016, NYSOH received your updated application for financial assistance for your child.

On April 2, 2016, NYSOH issued an eligibility redetermination notice, based on your April 1, 2016 application, stating that your child was conditionally eligible for coverage through CHP with a premium of \$45.00 per month, effective May 1, 2016. You were directed to provide income documentation before May 31, 2016 to confirm her eligibility, or her financial assistance or eligibility to enroll through NYSOH might end. You were also directed to review the attachment to that

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notice “Request for Additional Information – Documentation List” to identify what types of documents could be used to confirm the information on your application.

Also on April 2, 2016, NYSOH issued an enrollment notice, based on your plan selection on April 1, 2016, stating that your child was enrolled in a CHP plan and that coverage would start on May 1, 2016, at a premium rate of \$45.00 per month.

No updates were made to your account by May 31, 2016.

Since the requested income documentation was not provided by the deadline of May 31, 2016, on June 6, 2016, NYSOH issued an eligibility redetermination notice, based on a June 5, 2016 system update, stating that your child was eligible to enroll in a full price CHP plan or a Child-Only qualified health plan, effective July 1, 2016. This was because federal and state data sources showed your household income was more than \$80,640.00, which was above the allowable income range for the CHP program.

Also on June 6, 2016, NYSOH issued a disenrollment notice that stated your child’s CHP plan would end effective June 30, 2016. This was because your child was no longer eligible to remain in her current health insurance.

Also on June 6, 2016, NYSOH issued an enrollment notice confirming your child was enrolled in a CHP plan with a \$176.10 per month premium, effective July 1, 2016.

On June 24, 2016, NYSOH received your updated application for financial assistance for your child.

On June 25, 2016, NYSOH issued an eligibility redetermination notice, based on your June 24, 2016 application, stating that your child was eligible to enroll in CHP for a limited time, with a \$45.00 monthly premium, effective August 1, 2016. You were directed to provide income documentation before August 23, 2016 to confirm your child’s eligibility, or her financial assistance or eligibility to enroll through NYSOH might end.

Also on June 25, 2016, NYSOH issued an enrollment notice, based on your plan selection on June 24, 2016, stating that your child was enrolled in a CHP plan and that coverage would start on August 1, 2016, at a monthly premium rate of \$45.00.

Also on June 25, 2016, NYSOH issued a disenrollment notice that stated your child’s CHP plan would end effective July 31, 2016. This was because your child was no longer eligible to remain in her current health insurance.

On July 5, 2016, you spoke to NYSOH's Account Review Unit and appealed the level of your child's CHP premium for the month of July 2016.

On December 21, 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 are appealing only your child's eligibility for the month of July 2016.
- 2) According to your NYSOH account and your testimony, you expect to file your 2016 federal taxes using a tax filing status of Head of Household and will claim your two children as dependents on that tax return.
- 3) According to your NYSOH account and your testimony, you receive all of your notices from NYSOH by regular mail.
- 4) According to your NYSOH account, there are no notices marked as returned mail.
- 5) According to your NYSOH account, you and your family reside in Dutchess County, New York.
- 6) According to your NYSOH account, your only proof of income documentation was submitted on September 14, 2016. This was a pay advice dated 09/09/16 for pay period of 08/23/16 to 09/03/16, indicating salary payment of \$1,075.00. The year-to-date gross earnings was listed as \$50,385.00.
- 7) You testified that your daughter was receiving \$723.00 a month in Social Security Survivor's Benefits (SSSB). That benefit ended when she turned 18 years old. The last SSSB check was received in June 2016.
- 8) You testified that you are appealing the determination that you had to pay full premium cost for your child's CHP plan for the month of July 2016.

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

Applicable Law and Regulations

Verification Process

For all individuals whose income is needed to calculate the household's eligibility, NYSOH must request data from agency sources that will allow NYSOH to verify the household's income (45 CFR §155.320(c)(1)(i)). If NYSOH cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR §155.315(f)).

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)).

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 \$15.00 per month for a child whose family household income is between 223% and 250% of the FPL (PHL § 2510(9)(d)(iii)).

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)).

The CHP premium is \$45.00 per month for a child whose family household income is between 301% and 350% of the FPL (PHL § 2510(9)(d)(v)).

The CHP premium is \$60.00 per month for a child whose family household income is between 351% and 400% of the FPL (PHL § 2510(9)(d)(vi)).

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 \$20,090 for a three-person household (80 Fed. Reg. 3236, 3237).

Child Health Plus - Change in Premium Amount During the Policy Year

Effective January 1, 2014, the State must apply the financial methodologies used to determine Medicaid when determining financial eligibility of all individuals for CHP (45 CFR§ 457.315). The State may elect in its State Plan to base financial eligibility either on current monthly household income and family size or income based on projected annual income and family size for the remainder of the calendar year (42 CFR § 435.603). In circumstances where there is a change in income, New York State has elected to base financial eligibility on income prospectively, that is, for the remainder of the calendar year.

Families are required to report to the health plans [NYSOH] changes in New York State residency or health care coverage through insurance that may make a child ineligible for subsidy payments. They are also required to report changes which affect their subsidy level or make them appear eligible for Medicaid. The health plan [NYSOH] would act accordingly based upon the new information. If a family submits revised eligibility information to a plan that affects their eligibility status, the health plan [NYSOH] implements this information prospectively. A family may incur a lower or higher family contribution or be referred to Medicaid based on this new information (42 CFR § 457.570 and 457.505(c); Model State Child Health Plan OMB #: 0938-0707; §§ 4.1.8 and 4.3).

Legal Analysis

The issue under review is whether NYSOH properly determine that your child was eligible to enroll in a full price CHP plan, effective July 1, 2016.

On April 2, 2016, NYSOH issued an eligibility redetermination notice that stated your child was conditionally eligible to enroll in CHP for a cost of \$45.00 per month, effective May 1, 2016. The notice stated that additional information was needed to confirm your child's eligibility. You were required to submit proof of your household income by May 31, 2016. The notice stated that if you did not send in this information within the required time frame, your child's eligibility would be based on the information in state and federal data sources. Further, you were directed to review the attachment to that notice “Request for Additional

Information – Documentation List” to identify what types of documents could be used to confirm the information on your application.

You testified, and your NYSOH account confirms, that you elected to receive notifications by regular mail. There is no evidence in the record that any of the notices that were sent to your mailing address were returned as undeliverable.

Therefore, the record reflects that NYSOH properly notified you on April 2, 2016 that your child was only conditionally eligible for CHP and that you were required to submit proof of your household income by May 31, 2016.

You did not submit income documentation to confirm your household income by May 31, 2016, as directed. Therefore, NYSOH redetermined your child’s eligibility without the benefit of that documentation using federal and state data sources. Based upon that updated information, NYSOH found that your child was eligible to enroll in a full price CHP plan or a Child-Only qualified health plan, effective July 1, 2016.

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 FPL. Premiums are on a sliding scale, dependent upon income. Since you failed to provide documentation as directed, NYSOH was within its authority to increase your premiums based on information regarding your income it received through state and federal data sources.

Therefore, the June 6, 2016 eligibility determination stating that your child was eligible to enroll in a full price CHP plan, effective July 1, 2016, is correct and must be AFFIRMED.

The June 6, 2016 enrollment confirmation notice stating that your child’s enrollment in her CHP plan was effective July 1, 2016 at a premium of \$176.10 per month, is correct and must be AFFIRMED.

According to your NYSOH account you submitted an updated application for financial assistance for your child after filing this appeal. This Decision does not affect any subsequent eligibility decision(s).

Decision

The June 6, 2016 eligibility determination is AFFIRMED.

The June 6, 2016, enrollment confirmation notice is AFFIRMED.

This Decision does not affect any subsequent eligibility redeterminations made or enrollments confirmed by NYSOH.

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: February 10, 2017

How this Decision Affects Your Eligibility

This decision does not change your child's eligibility.

Your child's Child Health Plus plan premium for the month of July 2016 is \$176.10.

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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- By fax: 1-855-900-5557

Summary

The June 6, 2016 eligibility determination is AFFIRMED.

The June 6, 2016, enrollment confirmation notice is AFFIRMED.

This Decision does not affect any subsequent eligibility redeterminations made or enrollments confirmed by NYSOH.

This decision does not change your child's eligibility.

Your child's Child Health Plus plan premium for the month of July 2016 is \$176.10.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

