



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

Notice of Decision

Decision Date: December 21, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010903

[REDACTED]

Dear [REDACTED],

On December 13, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's July 12, 2016 eligibility determination notice and July 12, 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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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 (NYSOH) properly determine that your child was ineligible for Medicaid?

Did NYSOH properly determine that your child was eligible for Child Health Plus?

Did NYSOH properly determine that your child's enrollment in his Child Health Plus plan was effective August 1, 2016?

Procedural History

On July 12, 2016, NYSOH issued a notice of eligibility determination, based on your July 11, 2016 application, stating that your child was eligible to enroll in a full price Child Health Plus plan, effective August 1, 2016.

Also on July 12, 2016, NYSOH issued a notice of enrollment, based on your plan selection on July 11, 2016, stating that your child was enrolled in a Child Health Plus plan, and that this enrollment in the plan would start August 1, 2016.

On July 18, 2016, you spoke to NYSOH's Account Review Unit and appealed the start date of your child's Child Health Plus plan insofar as it did not begin June 1, 2016.

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On December 13, 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.
- 2) You testified that you are seeking to have your child covered from his date of birth.
- 3) The record reflects that your child was born on [REDACTED].
- 4) You testified that you first contacted a navigator shortly before the birth of your child, and were told to come in to complete an application after your child was born.
- 5) You testified that you had coverage through a broker outside NYSOH at the time your child was born.
- 6) You submitted an application to NYSOH for financial assistance on July 11, 2016.
- 7) You testified, and the record reflects, that you enrolled your child into a Child Health Plus plan on July 11, 2016.
- 8) Your July 11, 2016 application indicates that you will file your 2016 income tax return with a tax filing status of head of household and will claim one dependent. Your application also indicates an annual expected income for 2016 of \$125,227.00. This same application indicates that you were not seeking health insurance through NYSOH at that time.
- 9) You testified that you need your child's Child Health Plus plan to begin on June 1, 2016 because you want your child to be covered from his date of birth, and you have medical bills related to his care in June and July of 2016.

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

Applicable Law and Regulations

Medicaid for Pregnant Women

Medicaid is currently available to pregnant women who have a modified adjusted gross income at or below 223% of the FPL for the applicable family size (see 42 CFR § 435.116(c); NY Department of Health Administrative Directive 13ADM-03).

Medicaid for Newborns

Medicaid coverage must be provided to a child born to a woman who has been determined eligible and is receiving Medicaid on the date of the child's birth (42 CFR § 435.117(a), N.Y. Soc. Serv. Law § 366-g(3)). Additionally, Medicaid Managed Care plans are contractually obligated to provide coverage to eligible newborns based on the transaction date of the enrollment of the newborn (Medicaid Managed Care Model Contract (Appendix H-6 effective 3/1/2014 – 2/28/2019)).

A child who is under one year of age 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 223% 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 the case of an individual who expects to file a tax return and does not expect to be claimed by another taxpayer, the household consists of the taxpayer and all persons whom such individual expects to claim as a tax dependent (42 CFR § 435.603(f)(1)).

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 two-person household (81 Federal Register 4036).

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

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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)).

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 \$15,930.00 for a two-person household (80 Federal Register 3236, 3237).

The “period of eligibility” for Child Health Plus is “that period commencing on the first day of the month during which a child is an eligible child and enrolled or recertified for enrollment on an annual basis based on all required information and documentation and ending on the last day of the twelfth month following such date,” unless the CHP premiums are not timely paid or the child no longer resides in New York State, gains access to or obtains other health insurance coverage, or becomes eligible for Medicaid (NY Public Health Law § 2510(6)).

“A State must specify a method for determining the effective date of eligibility for [Child Health Plus], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [Child Health Plus] and other insurance affordability programs as family circumstances change and avoids gaps or overlaps in coverage” (42 CFR § 457.340(f)).

The State of New York has provided that a child’s period of eligibility for Child Health Plus begins on the first day of the month during which a child is eligible. A child will become eligible on the first day of the next month, if the application is received by the 15th of the month; applications received after the 15th day of the month will be processed for the first day of the second following month (see e.g. State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

Legal Analysis

The first issue is whether NYSOH properly determined that your child was not eligible for Medicaid.

According to the record, you expect to file your federal income tax return for the 2016 tax year with a status of head of household and claim your one child as a dependent. Therefore, your child is in a two-person household.

In your July 11, 2016 application, you attested to an expected household income of \$125,227.00. The application also stated that your child is under one year of age.

Medicaid can be provided through NYSOH to children under one year of age who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 223% of the FPL for the applicable family size. Since \$125,227.00 is 781.69% of the 2016 FPL for a two-person household, NYSOH properly found your child to be ineligible for Medicaid.

In New York State Medicaid coverage must be provided to a child born to a woman who has been determined eligible and is receiving Medicaid on the date of the child's birth. The record reflects that you were not receiving Medicaid at the time of your child's birth. Therefore, your child was not mandated to receive coverage through Medicaid as of his date of birth.

You testified that you first contacted a navigator prior to the birth of your child. Your eligibility was not determined at that time. However, in 2016 a pregnant woman would qualify for Medicaid at an income up to \$35,725.00 (223% of the 2016 FPL). The application submitted on July 11, 2016 indicated 2016 income of \$125,227.00. Therefore, had you submitted an application when you first contacted the navigator, shortly before the birth of your child, Medicaid would have been denied on an annual financial basis.

The second issue under review is whether NYSOH properly determined that your child was eligible to enroll in a full price Child Health Plus plan.

A child is eligible to enroll in Child Health Plus if they meet the non-financial requirements and are not eligible for Medicaid. A child who meets these requirements may be eligible for a subsidy if they have a household income below 400% of the FPL. On the date of your application, the relevant FPL was \$15,930.00 for a two-person household. Since \$125,227.00 is 786.11% of the 2015 FPL, NYSOH properly found your child to be eligible for Child Health Plus at full cost.

As the July 12, 2016 eligibility determination properly found your child eligible to enroll in a full price Child Health Plus plan, the July 12, 2016 eligibility determination notice is correct and must be AFFIRMED.

The third issue is whether NYSOH properly determined that your child's enrollment in his Child Health Plus plan was effective August 1, 2016.

You testified that you completed your application with a navigator on July 11, 2016 and enrolled your child into a Child Health Plus plan that day.

The date on which a Child Health Plus plan can take effect depends on the day a person selects the plan for enrollment. A plan that is selected between the first day and fifteenth day of a month goes into effect on the first day of the following month. A plan that is selected from the sixteenth day of the month and the end of the month goes into effect on the first day of the second following month.

Therefore, the July 12, 2016 enrollment confirmation notice stating that your child's enrollment in his Child Health Plus plan was effective August 1, 2016, is correct and must be AFFIRMED.

Decision

The July 12, 2016 eligibility determination notice is AFFIRMED.

The July 12, 2016 enrollment confirmation notice is AFFIRMED.

Effective Date of this Decision: December 21, 2016

How this Decision Affects Your Eligibility

This decision does not change your child's eligibility.

The effective date of your child's Child Health Plus plan is August 1, 2016.

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

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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 July 12, 2016 eligibility determination notice is AFFIRMED.

This decision does not change your child's eligibility.

The July 12, 2016 enrollment confirmation notice is AFFIRMED.

The effective date of your child's Child Health Plus plan is August 1, 2016.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

