



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

Notice of Decision

Decision Date: December 23, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011874

[REDACTED]

Dear [REDACTED],

On December 7, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's August 27, 2016 eligibility determination notice as it related to your infant child.

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.

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Decision

Decision Date: December 23, 2016

NY State of Health Account ID: [REDACTED]
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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 properly determine that your infant child was eligible for Medicaid, effective August 1, 2016?

Procedural History

On August 27, 2016, NY State of Health (NYSOH) issued a notice of eligibility determination stating in part that your infant child was eligible for Medicaid, effective August 1, 2016, and need to choose a health plan.

On September 6, 2016, NYSOH issued an enrollment notice stating in part that your infant child was enrolled in a Medicaid Managed Care (MMC) plan, which would start October 1, 2016. This eligibility determination was based on a reported household income on your NYSOH application of \$45,000.00. The notice further stated that your infant child was enrolled in a Wellcare MMC plan by NYSOH because you had not selected a plan for her.

That same day, you spoke to NYSOH's Account Review Unit and appealed your infant child's Medicaid eligibility insofar as she was not determined eligible for Child Health Plus (CHP).

On September 7, 2016, NYSOH issued an eligibility redetermination notice, based on your September 6, 2016 updated application, stating in part that your infant child was now eligible for CHP with a monthly premium of \$30.00, effective October 1, 2016. That same notice also stated that your older child was eligible

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for CHP with a \$30.00 monthly premium, effective October 1, 2016. These eligibility determinations were based on a reported household income on your NYSOH application of \$63,232.00.

Also on September 7, 2016, NYSOH issued an enrollment notice that in part stated your children's health coverage with CHP would not begin until you picked a plan for them.

Also on September 7, 2016, NYSOH issued a cancellation notice stating in part that your infant child's Wellcare MMC plan would end effective October 1, 2016.

Also on September 7, 2016, NYSOH issued another cancellation notice regarding your infant child, in which it confirmed your September 6, 2016 request to cancel her MMC coverage was processed. The notice further stated that she would not have coverage in that health plan as of October 1, 2016.

Lastly, on September 7, 2016, NYSOH issued a disenrollment notice that stated your older child's CHP plan coverage would end effective September 30, 2016.

On September 8, 2016, NYSOH issued another eligibility redetermination notice, based on your September 7, 2016 updated application, stating in part that both your children were eligible for CHP with a \$30.00 monthly premium each, effective October 1, 2016. These eligibility determinations were based on a reported household income on your NYSOH application of \$63,232.00.

Also on September 8, 2016, NYSOH issued an enrollment notice, based on your September 7, 2016 health plan selection, confirming that both your children were enrolled in a CHP plan, effective October 1, 2016, with a total premium due of \$39.00.

On October 22, 2016, NYSOH issued another enrollment notice confirming in part that your children were still enrolled in the same CHP plan as of October 1, 2016, but the total premium amount was changed to \$60.00.

On November 4, 2016, NYSOH issued a disenrollment notice stating that both your children were disenrolled from their CHP plan, effective October 31, 2016, due to nonpayment of premium.

On November 9, 2016, NYSOH issued an eligibility redetermination notice that in part stated no action was needed with regard to your children's respective CHP eligibility as their current eligibilities would continue until September 30, 2017.

On November 9, 2016, NYSOH issued an enrollment notice confirming in part that your children were enrolled in the same CHP plan with a \$60.00 total monthly premium, effective October 1, 2016.

On December 7, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. At the onset of the hearing you requested to amend the issue to your infant child's health insurance coverage through CHP for October 2016. Later in the hearing, you requested to have the CHP monthly premiums reviewed for both your children. The Hearing Officer agreed to amend the appeal to the issue of your infant child's eligibility for and enrollment in CHP as of October 1, 2016, and the monthly premium amounts for both children.

The record was developed during the hearing and held open for up to fifteen days until December 22, 2016, to allow you to submit supporting documentation.

On December 19, 2016, the Appeals Unit received a six-page facsimile from you, consisting of your Wells Fargo checking account transactions. This six-page facsimile was made part of the record as "Appellant's Exhibit A." The record is now closed.

Findings of Fact

A review of the record supports the following findings of fact:

- 1) You testified that you are appealing only your infant child's eligibility.
- 2) You submitted an application to NYSOH for financial assistance on August 26, 2016, which was then updated again on September 6, 2016.
- 3) Your infant child was determined Medicaid eligible as of August 1, 2016 and her MMC plan was to begin on October 1, 2016.
- 4) You testified that the income reported in your NYSOH account in August 2016 of \$45,000.00 was not accurate.
- 5) According to your NYSOH application updated on September 7, 2016, your household's reported income was \$63,232.00. You testified that you did not believe this amount was accurate either.
- 6) You testified that your household income should include your spouse's gross earnings of \$45,000.00. You provided documentary evidence that your gross income for the part of this year that you worked was \$8,159.75 (see Appellant's Exhibit A, p.6).
- 7) According to your NYSOH account, you enrolled your children into the same Child Health Plus plan on September 7, 2016.
- 8) According to your NYSOH account, your children were disenrolled from their CHP plan as of October 31, 2016, due to nonpayment of premium.

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- 9) You submitted your checking account statement to show that you paid the October 2016 monthly premium for both children on November 21, 2016 for a total amount of \$60.00.
- 10) According to your NYSOH account, on November 8, 2016, both your children were reinstated into their CHP plan as of October 1, 2016.
- 11) You testified that you are disputing your infant child not being covered by her CHP plan for the month of October 2016, during which time you incurred medical expenses for treatment and care she required.
- 12) You also requested an explanation as to how the monthly premium is calculated for each of your children

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 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 August 26, 2016 application, that was the 2016 FPL, which was \$24,300.00 for a four-person household (81 Federal Register 4036).

Medicaid Start Dates

An individual is eligible for fee-for-service Medicaid effective on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b), Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010, 13ADM-03(III)(F)).

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Medicaid Managed Care plan enrollments received on or before the fifteenth day of the month are effective the first day of the following month. Enrollments received after the fifteenth day of the month are effective the first day of the second following month (Medicaid Managed Care Model Contract (Appendix H-6(b)(ii) & (iii), effective 3/1/2014 – 2/28/2019; see 42 USC § 1315; § 364-j(1)(c); 18 NYCRR § 360-10.3(h), Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010,13ADM-03(III)(F)).

Child Health Plus

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).

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)).

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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)).

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)).

The CHP premium is \$30.00 per month for a child whose family household income is between 251% and 300% of the FPL, but no more than \$90.00 per month per family (NY 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, but no more than \$135.00 per month per family (NY 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, but no more than \$180.00 per child (NY 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 2016 FPL, which was \$24,300.00 for a four-person household (81 Federal Register 4036).

Legal Analysis

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

According to the record, you expect to file a joint federal income tax return for the 2016 tax year and claim your two children as dependents. Therefore, your child is in a four-person household for purposes of this analysis.

On your August 26, 2016 application, your expected household income was listed as \$45,000.00. The application also stated that your child was under one year old at the time. NYSOH relied upon this information.

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Medicaid can be provided through NYSOH to children under one year of age is eligible 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. Since \$45,000.00 is 185.19% of the 2016 FPL for a four-person household, NYSOH properly found your infant child to be eligible for Medicaid as of the first of the month; that is, as of August 1, 2016.

Since you selected an MMC plan for your infant child on September 7, 2016, which is before the fifteenth of that month, it was properly scheduled to begin the first day of the next following month; that is, as of October 1, 2016.

You testified that you want your child enrolled in health coverage through Child Health Plus and not Medicaid. In fact, your application was updated on September 6 and 7, 2016, and the household income was changed to \$63,232.00, resulting in a redetermination of your household's eligibility for financial assistance and insurance affordability programs.

The record reflects that on September 8, 2016, NYSOH issued an eligibility redetermination notice that in part stated both your children were eligible for CHP, effective October 1, 2016, and they each had a monthly premium of \$30.00.

The September 8, 2016 corresponding enrollment notice confirmed the CHP plan you selected for each child on September 7, 2016, with an enrollment start date of October 1, 2016.

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.

Since you selected your children's CHP plan on September 7, 2016, which is before the fifteenth day of that month, their CHP plan enrollment properly started the first day of the next month following September 2016; that is, on October 1, 2016.

Therefore, the September 8, 2016 enrollment confirmation notice stating that your children's enrollment in their CHP plan was effective October 1, 2016, is correct and must be AFFIRMED.

However, the September 8, 2016 enrollment notice wrongly stated the monthly premium totaled \$39.00, which permits the inference that your older child's premium amount had not been updated in the system. Notwithstanding, you provided documentary evidence to show that you paid \$15.00 for your older

child's October 2015 premium and \$30.00 for your infant child's; premium for CHP coverage to start October 1, 2016.

Since the total monthly premium due to your children's CHP plan was actually \$60.00 (\$30.00 each) as stated in the September 8, 2016 eligibility redetermination notice, your children were disenrolled from their CHP plan, effective October 31, 2016, because you paid \$45.00 and not \$60.00, so there was an underpayment. NYSOH realized the series of events and the enrollment notice error had led to the underpayment of premium for the month of October 2016, and reinstated both your children's coverage as of October 1, 2016 and continuing through September 17, 2016.

Therefore, the October 1, 2016 start date of your infant child's coverage has been resolved and the issue as amended on appeal is rendered moot. You can contact your infant child's CHP plan directly to process the claim for the medical services she received in October 2016.

You also asked for an explanation as to how your children's CHP monthly premiums are calculated. First, it is noted that your NYSOH account was updated several times in August 2016 and the beginning of September 2016, which likely led to a lag and/or overlap in the CHP premiums you were responsible to pay for each child.

On September 7, 2016, you updated your NYSDOH account and your household income was reported as \$63,232.00, and your household size consisted of four people. NYSOH relied upon that information in calculating your children's monthly CHP premiums.

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 FPL. Households with an income between 251% and 300% of the FPL are responsible for a \$30.00 per month Child Health Plus premium payment per child. On the date of your application, the relevant FPL was \$24,300.00 for a four-person household. Since \$63,232.00 is 260.21% of the 2016 FPL, NYSOH properly found your children to be eligible for Child Health Plus with a \$30.00 monthly premium payment per child.

Therefore, the premiums of \$30.00 each are correct, as based on a household income of \$63,232.00 for a four-person household. However, you testified that your household's gross income has since changed, which you will need to report to NYSOH for your children's monthly premium to be re-calculated mid-policy year.

Decision

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The September 8, 2016 enrollment confirmation notice is MODIFIED only to correct the premium amount due from \$39.00 in total to \$60.00 in total (\$30.00 each child).

Effective Date of this Decision: December 23, 2016

How this Decision Affects Your Eligibility

This decision does not change your infant child's eligibility for CHP.

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

The premiums of \$30.00 each are correct, as based on a household income of \$63,232.00 for a four-person household. However, you testified that your household's gross income has since changed, which you will need to report to NYSOH for your children's monthly premium to be re-calculated mid-year during their policy year.

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):

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Summary

The September 8, 2016 enrollment confirmation notice is MODIFIED only to correct the premium amount due from \$39.00 in total to \$60.00 in total (\$30.00 each child).

This decision does not change your infant child's eligibility for CHP.

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

The premiums of \$30.00 each are correct, as based on a household income of \$63,232.00 for a four-person household. However, you testified that your household's gross income has since changed, which you will need to report to NYSOH for your children's monthly premium to be re-calculated mid-year during their policy year.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

