



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

Notice of Decision

Decision Date: January 6, 2017

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000011936



Dear [REDACTED],

On December 28, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's September 10, 2016 eligibility determination.

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.

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 Number: [REDACTED]
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Issue

The issue presented for review by the Appeals Unit of NY State of Health is:

Did NYSOH properly determine that your child was eligible for Medicaid, effective October 1, 2016?

Procedural History

On September 9, 2016, NYSOH received your application for health insurance. That day, a preliminary eligibility determination was prepared with regard to that application, stating that your child was eligible for Medicaid, effective October 1, 2016.

Also on September 9, 2016, you spoke to NYSOH's Account Review Unit and appealed that preliminary eligibility determination insofar as your child was eligible for Medicaid, and not eligible for Child Health Plus.

On September 10, 2016, NYSOH issued an eligibility determination notice stating that your child was eligible for Medicaid, effective October 1, 2016.

On December 22, 2016, you were scheduled for a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. You requested that day that the hearing be adjourned to a later date.

On December 28, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Under oath, you waived your right to formal notice of the

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hearing. 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 tax return with a tax filing status of head of household. You will claim your son as a dependent on that tax return.
- 2) The application that was submitted on September 9, 2016 listed annual household income of \$15,067.50. You testified that this amount was correct.
- 3) You testified that this income consisted of wages you earned from employment through August 11, 2016 and unemployment income you received after August 27, 2016.
- 4) At the time of the September 9, 2016 application, your child was nine years old.
- 5) Your application states, and you testified, that you will not be taking any deductions on your 2016 tax return.
- 6) Your application states, and you testified, that you live in Rensselaer County.
- 7) You testified that you would like your child to be eligible for Child Health Plus, and not Medicaid, as his doctors do not accept Medicaid.

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 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 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).

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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

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)).

Legal Analysis

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

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

On your September 9, 2016 application, you attested to an expected household income of \$15,067.50. The application also stated that your child is nine years old. NYSOH relied upon this information.

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. Since \$15,067.50 is 94.05% of the 2016 FPL for a two-person household, NYSOH properly found your child to be eligible for Medicaid.

You testified that you want your child enrolled in health coverage through Child Health Plus and not Medicaid. However, under New York State's Public Health Law, a Medicaid-eligible child does not qualify to enroll in health insurance through Child Health Plus.

Accordingly, the September 10, 2016 notice of eligibility determination that your child was eligible for Medicaid is correct and is **AFFIRMED**.

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Decision

The September 10, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: January 6, 2017

How this Decision Affects Your Eligibility

Your child remains eligible 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
- By mail at:

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- By fax: 1-855-900-5557

Summary

The September 10, 2016 eligibility determination notice is **AFFIRMED**.

Your child remains eligible for Medicaid.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

