



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

Notice of Decision

Decision Date: January 17, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000012010

[REDACTED]
[REDACTED]

On December 22, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's August 12, 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 and 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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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 properly determine that you were eligible to enroll in the Essential Plan with a \$20.00 monthly premium, effective September 1, 2016?

Did NY State of Health properly determine that you were not eligible for Medicaid, as of August 12, 2016?

Did NY State of Health properly determine that your child was eligible to enroll in a Child Health Plus plan with a \$9.00 monthly premium, effective September 1, 2016?

Did NY State of Health properly determine that your child was not eligible for Medicaid, as of August 12, 2016?

Procedural History

On July 20, 2016, NY State of Health (NYSOH) received your updated application for financial assistance in [REDACTED]

On July 21, 2016, NYSOH issued an eligibility determination based on the July 20, 2016 application, stating that you are conditionally eligible to enroll in the Essential Plan, effective September 1, 2016 pending proof of income by October 18, 2016. The notice also stated that your child was eligible to enroll in Child Health Plus with a \$9.00 monthly premium, effective September 1, 2016

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Also on July 21, 2016, NYSOH issued a notice of enrollment confirmation stating that you were enrolled in the Essential Plan with a \$20.00 monthly premium, effective September 1, 2016. The notice also confirmed that your child was enrolled in a Child Health Plus plan with a \$9.00 monthly premium, effective September 1, 2016

On August 5, 2016, you uploaded a letter of termination from your former employer to your NYSOH account, which was verified by NYSOH on August 11, 2016.

On August 12, 2016, NYSOH issued an eligibility determination, based on an August 11, 2016 updated application, stating that you are eligible to enroll in the Essential Plan, effective September 1, 2016. The notice also stated that your child was eligible to enroll in Child Health Plus with a \$9.00 monthly premium, effective September 1, 2016

On September 15, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as you and your child were not eligible for Medicaid. This appeal was acknowledged in a different account than what the above determination notices were issues- [REDACTED]

On December 22, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was left open until January 13, 2017 for you to submit proof of your income for the months of July and August 2016. On January 2, 2017, you uploaded to your NYSOH account a paystub with check date July 15, 2016 and a print-out of the "payment detail" of your Unemployment Insurance Benefits (UIB) for July and August 2016. Thereafter, the record was closed.

Findings of Fact

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

- 1) You testified that you expect to file your 2016 taxes with a tax filing status of head of household. You will claim one dependent on that tax return.
- 2) You are seeking insurance for you and your child.
- 3) The application that was submitted on July 20, 2016 in [REDACTED] which requested financial assistance for you and your child, listed annual household income of \$26,702.25, consisting of income you earned from your employment. You testified that this amount was correct.

- 4) You testified that you are currently unemployed and that your last day of employment was July 14, 2016.
- 5) You testified that you began receiving weekly UIB, in the gross amount of \$420.00, at the end of July 2016.
- 6) On August 5, 2016, you uploaded to your NYSOH account a letter from your former employer stating that your employment was terminated as of July 14, 2016.
- 7) On August 11, 2016, NYSOH verified this letter. The same day, the "system" updated your application listing an annual income amount of \$26,702.25. You testified that this amount was correct.
- 8) You testified that in the month of July 2016 you only received one check from your employer in the amount of \$1,483.27 and one payment from UIB in the gross amount of \$420.00.
- 9) You testified that in the month of August 2016 the only income you received was UIB, but you were not sure of the total amount.
- 10) You submitted a paystub with check date of July 15, 2016 in the gross amount of \$2,193.56.
- 11) You submitted a print-out purporting to be a "payment detail" of your UIB showing direct deposits made in July and August 2016. This document is not on official letter-head and does not indicate whether the deposit amounts are the gross or net payments.
- 12) Your application states, and you testified, that you will not be taking any deductions on your 2016 tax return.
- 13) Your application states that you live in Kings County.
- 14) The record reflects that your child was fifteen years old at the time of the July 20, 2016 and August 11, 2016 applications.
- 15) You testified that you are seeking for you and your child to be deemed eligible for Medicaid.
- 16) The record reflects that on July 30, 2016, a new NYSOH account was created under your name [REDACTED]. The present appeal was filed under that account. You testified that this account was created in error. On August 8, 2016, incident [REDACTED] was created to make account [REDACTED] inactive.

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

Applicable Law and Regulations

Essential Plan

NYSOH must generally determine an applicant eligible for the Essential Plan, a basic health plan, if the person is (1) a resident of New York State, (2) expects to have a household income between 138% and 200% of the applicable federal poverty level (FPL) or, in the case of an individual who is a lawfully present non-citizen who is ineligible for Medicaid or Child Health Plus as a result of their immigration status, has a household income that is between 0% and 200% of the FPL, (3) is not otherwise eligible for minimum essential coverage except through the individual market, (4) is 64 years old or younger, (5) is a citizen or a lawfully present non-citizen, and (6) is not incarcerated (see 42 CFR § 600.305, 42 CFR § 435.603(d)(4), 45 CFR § 155.305(e), NY Social Services Law § 369-gg(3), 42 USC § 18051).

In an analysis of Essential Plan eligibility, the determination is based on the FPL in effect on the first day of the benefit year for which coverage is requested (45 CFR § 155.300(a)). On the date of your application, that was the 2015 FPL, which is \$15,930.00 for a two-person household (80 Fed. Reg. 3236, 3237).

A person who has a household income that is at or below 150% of the FPL has a \$0.00 premium contribution (New York's Basic Health Plan Blueprint, p. 21, as approved January 2016; see <https://www.medicaid.gov/basic-health-program/basic-health-program.html>).

A person who has a household income greater than 150% of the FPL or below 200% of the FPL has a \$20.00 per month premium contribution (New York's Basic Health Plan Blueprint, as approved January 2016).

The Essential Plan is considered minimum essential coverage therefore, a person who is eligible for the Essential Plan is not eligible for any premium tax credit because they are eligible for minimum essential coverage through the individual market (see 26 CFR § 1.36B-2(c)(1), 26 USC § 5000A(f)(1)(C)).

Medicaid

Medicaid can be provided through NYSOH to adults who: (1) are age 19 or older and under age 65, (2) are not pregnant, (3) are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act, (4) are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State

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plan in accordance with subpart B of this part, and (5) have a household modified adjusted gross income (MAGI) that is at or below 138% of the FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), NY Social Services Law § 366(1)(b)).

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 is \$16,020.00 for a two-person household (81 Fed. Reg. 4036).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved March 19, 2014).

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)).

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).

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 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).

Legal Analysis

The first issue is whether NYSOH properly determined that you were eligible for the Essential Plan, effective September 1, 2016.

The application submitted on August 11, 2016 listed an annual household income of \$26,702.25. You testified that this amount was accurate and the August 12, 2016 eligibility determination relied upon that information.

You are in a two-person household. You expect to file your 2016 income taxes as head of household and will claim one dependent on that tax return.

The Essential Plan is provided through NYSOH to individuals who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is between 138% and 200% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$15,930.00 for a two-person household. Since an annual household income of \$26,702.25 is 167.62% of the 2015 FPL, NYSOH properly found you to be eligible for the Essential Plan.

Therefore, the August 12, 2016 eligibility determination notice, to the extent it stated you were eligible to enroll in the Essential Plan, effective September 1, 2016, was correct and is **AFFIRMED**.

The second issue is whether NYSOH properly determined that you were not eligible for Medicaid, as of August 12, 2016.

Medicaid can be provided through NYSOH to adults between the ages of 19 and 65 who meet the non-financial requirements and have a household modified adjusted gross income that is at or below 138% of the FPL for the applicable family size. On the date of your application, the relevant FPL was \$16,020.00 for a two-person household.

The August 11, 2016 application listed your annual household income amount as \$26,702.25. Since \$26,702.25 is 166.67% of the 2016 FPL, NYSOH properly found you to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

However, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. Accordingly, in order to determine your eligibility for Medicaid, NYSOH appeals unit requires sufficient evidence of the amount of household income you received in the month in which your application was submitted, August 2016.

You previously uploaded a letter from your former employer stating that your employment was terminated as of July 14, 2016. You testified that you began receiving weekly UIB beginning at the end of July 2016. You submitted a print-out purporting to be a "payment detail" of your UIB showing direct deposits made in July and August 2016. However, this document is not on Department of Labor letter-head and does not indicate whether the deposit amounts are the gross or net payments. Accordingly, this is not reliable evidence of the amount of UIB you received in August 2016.

Therefore, there is insufficient evidence to determine the amount of income you received in the month of August 2016.

Accordingly, the August 12, 2016 eligibility determination notice, to the extent it found you not eligible for Medicaid, must be AFFIRMED.

The third issue is whether NYSOH properly determined that your child was eligible to enroll Child Health Plus with a \$9.00 monthly premium, effective September 1, 2016.

The record reflects that your child is in a two-person household.

NYSOH relied upon this information in the August 11, 2016 application wherein your expected annual household income was listed at \$26,702.25 and your child was listed as being 15 years old.

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 160% and 222% of the

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FPL are responsible for a \$9.00 per month Child Health Plus premium payment. On the date of your application, the relevant FPL was \$15,930.00 for a two-person household. Since \$26,702.25 is 167.62% of the 2015 FPL, NYSOH properly found your child to be eligible for Child Health Plus with a \$9.00 per month premium payment.

Therefore, August 12, 2016 eligibility determination notice, to the extent it found your child eligible to enroll in a Child Health Plus plan with a \$9.00 monthly premium, is correct and is AFFIRMED.

The fourth issue is whether NYSOH properly determined that your child was not eligible for Medicaid, as of August 12, 2016.

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 MAGI that is at or below 154% of the FPL for the applicable family size. Since your household expected annual income of \$26,702.25 is 166.67% of the 2016 FPL for a two-person household, NYSOH properly found your child to be not eligible for Medicaid.

As discussed above, there is insufficient evidence in the record to determine the total amount of household income you received in the month of August 2016. Therefore, it is not possible for the NYSOH Appeals Unit to determine your child's eligibility for Medicaid based on current monthly household income and family size.

Therefore, the August 12, 2016 eligibility determination, to the extent it found your child was not eligible for Medicaid, is correct and is AFFIRMED.

Decision

The August 12, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: January 17, 2017

How this Decision Affects Your Eligibility

You remain eligible for the Essential Plan with a \$20.00 monthly premium.

Your child remains eligible for Child Health Plus with a \$9.00 monthly premium.

You and your child are not eligible for Medicaid.

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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 after 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 August 12, 2016 eligibility determination notice is **AFFIRMED**.

You remain eligible for the Essential Plan with a \$20.00 monthly premium.

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Your child remains eligible for Child Health Plus with a \$9.00 monthly premium.

You and your child are not eligible for Medicaid.

Legal Authority

We are sending you this notice in accordance with 45 CFR § 155.545.

A Copy of this Decision Has Been Provided To:

