



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

## Notice of Decision

Decision Date: February 21, 2017

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000012785

[REDACTED]

Dear [REDACTED]

On February 1, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's October 16, 2016 eligibility redetermination 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 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).

This page intentionally left blank.



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

## Decision

Decision Date: February 21, 2017

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000012785

[REDACTED]

## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did NYSOH properly determine that your child ([REDACTED]) was eligible to enroll in Child Health Plus with a \$45.00 per month premium, effective June 1, 2016?

Did NYSOH properly determine that your child was not eligible for retro Medicaid for the period of July 1, 2016 through September 30, 2016?

Was your Child Health Plus plan incorrect to not cover medical costs you incurred as a result of your child's injury and subsequent treatment in Connecticut?

## Procedural History

On April 25, 2016, NYSOH received your application for health insurance.

On April 26, 2016, NYSOH issued an eligibility determination notice stating that your two children were eligible to enroll in Child Health Plus with a \$45.00 monthly premium, effective June 1, 2016. The notice further stated that they were not eligible for Medicaid because your income of \$97,200.00 was over the allowable limit for that program.

You subsequently enrolled your children in a Child Health Plus plan effective June 1, 2016.

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).

On October 16, 2016, NYSOH issued an eligibility redetermination notice finding your child ineligible for help paying for his medical bills for July 1, 2016 through September 30, 2016. The notice stated this was because the program your child was eligible for cannot pay for any care you received in the past.

On October 25, 2016, you spoke to NYSOH's Account Review Unit and appealed the October 16, 2016 determination insofar as you were determined ineligible for help paying for your child's medical bills for the period of July 1, 2016 through September 30, 2016.

On January 23, 2017, a Hearing Officer from the NYSOH Appeals Unit called you and placed you under oath. Before the hearing could go forward, you requested your supporting documentation be reviewed by the Hearing Officer. Your request was granted, and the Hearing Officer adjourned the hearing to February 1, 2017 in order to receive your supporting documentation.

On February 1, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. You waived formal notice on the record. 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 filed an appeal because your child's Child Health Plus plan would not cover the remainder of expenses you incurred for your son's surgery and treatment out of state. You testified you believed he had health insurance which would be acceptable to the physician's treating him in Connecticut.
- 2) You submitted documentation that described the medical costs you incurred for your son's emergency surgery in Connecticut during July, 2016. See Document: [REDACTED].
- 3) You testified you were not aware the physician you brought your child to did not accept out of state coverage.
- 4) You testified that you expect to file your 2016 tax return with a tax filing status of married filing jointly. You will claim your three children on that tax return.
- 5) The application that was submitted on April 25, 2016 listed annual household income of \$97,200.00, consisting of \$60,000.00 you earn from your employment and \$31,068.00 in Social Security benefits. The

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).

application also states it consists of \$6,132.00 your spouse receives in Social Security benefits.

- 6) You testified that you believe the income you included in your application sounded correct.
- 7) At the time of your April 25, 2016 application, your child was 17 years old.
- 8) Your application states that you will not be taking any deductions on your 2016 tax return.
- 9) Your application states that you live in Westchester County, N.Y.

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

## **Applicable Law and Regulations**

### 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 \$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)).

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 \$28,440.00 for a five-person household (81 Fed. Reg. 4036).

### 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 Department of Social Services Administrative Directive 13ADM-03).

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 \$28,440.00 for a five-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). Family size equals the number of individuals for whom the taxpayer is allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

The Department of Health must make Medicaid coverage start retroactively for up to three months prior to the month of application if the individual received medical services that would have been covered under Medicaid and the individual would have been eligible for Medicaid at the time he received the services if he had applied. (42 CFR 435.915(a)). The Department of Health may make eligibility effective for fee-for-service Medicaid on the first day of the month if an individual was eligible any time during that month (42 CFR 435.915(b)).

### Minimum Essential Coverage

Minimum essential coverage includes most government-sponsored insurance plans such as Medicaid, Medicare, CHIP, Tricare, Veterans' Health Coverage, and eligible employer-sponsored insurance (26 USC §§ 36B(c)(2)(B) and 5000A(f)).

According to 26 USC § 5000A, which is part of the Internal Revenue Code, various government-sponsored plans provide minimum essential coverage, including the Medicare program under part A of title XVIII of the Social Security Act (26 USC § 5000A(f)(1)(A)(i), .42 USCS §§ 1395c et seq.).

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).

## Valid Appeals

An applicant has the right to appeal: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions, (3) an eligibility determination for an exemption, (4) a failure by the Exchange to provide timely notice of an eligibility determination, and (5) a denial of a request to vacate dismissal made by the NYSOH Appeals Unit (45 CFR § 155.505).

## **Legal Analysis**

The first issue under review is whether NYSOH properly determined that your child was eligible to enroll in Child Health Plus with a \$45.00 per month premium.

According to the record, you expect to file a joint federal income tax return for the 2016 tax year and claim your three children as a dependent. Therefore, your child is in a five-person household.

In your April 25, 2016 application, you attested to an expected household income of \$97,200.00. The application also stated that your child was 17 years old. NYSOH relied upon this information.

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 Federal Poverty Level (FPL). Households with an income between 301% and 350% of the FPL are responsible for a \$45.00 per month Child Health Plus premium payment. On the date of your application, the relevant FPL was \$28,440.00 for a five-person household. Since \$97,200.00 is 341.77% of the 2016 FPL, NYSOH properly found your child to be eligible for Child Health Plus with a \$45.00 per month premium payment.

The second issue is whether NYSOH properly determined that your child was not eligible for retro Medicaid for the period of July 1, 2016 through September 30, 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 modified adjusted gross income (MAGI) that is at or below 154% of the FPL for the applicable family size. Since \$97,200.00 is 341.77% of the 2016 FPL for a five-person household, NYSOH properly found your child to be not eligible for Medicaid.

The Department of Health must make Medicaid coverage start retroactively for up to three months prior to the month of application if the individual received

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).

medical services that would have been covered under Medicaid and the individual would have been eligible for Medicaid at the time he received the services if he had applied.

A monthly analysis of Medicaid eligibility of 154% of the FPL for 2016 would be \$3,650.00 for a five-person household. Since your income of \$97,200.00 on a monthly basis is \$8,100.00 a month, you would not be eligible for Medicaid on a monthly income basis.

Since the October 16, 2016 eligibility determination properly stated that, based on the information you provided, you were ineligible for help paying for child's medical bills for July 1, 2016 through September 30, 2016 because the program your child was eligible for cannot pay for any care you received in the past it is correct and is AFFIRMED.

The third issue is whether your Child Health Plus plan was incorrect to not cover medical costs you incurred as a result of your child's injury and subsequent treatment in Connecticut.

An applicant has the right to appeal to NYSOH's Appeals Unit: (1) an eligibility determination, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (2) a redetermination of eligibility, including the amount of advance payments of the premium tax credit and level of cost-sharing reductions; (3) an eligibility determination for an exemption; (4) a failure by the Exchange to provide timely notice of an eligibility determination; and (5) a denial of a request for a special enrollment period.

You testified that you filed an appeal because your child's Child Health Plus plan would not cover the remainder of expenses you incurred for your son's surgery and treatment out of state. You testified you believed he had health insurance which would be acceptable to the physician's treating him in Connecticut.

Since your appeal was requested to dispute the amount of coverage your Child Health Plus plan provided to you, and this issue relates to a plan's coverage policy, which is not an issue that the NY State of Health Appeals Unit is authorized to address, your appeal on this issue is DISMISSED.

## **Decision**

The October 16, 2016, eligibility determination notice is AFFIRMED.

Your appeal of whether your child's Child Health Plus plan should cover medical costs incurred as a result of your child's injury and subsequent treatment in Connecticut is DISMISSED.



**Effective Date of this Decision:** February 21, 2017

### **How this Decision Affects Your Eligibility**

Your child remains eligible for Child Health Plus with a \$45.00 per month premium.

Your child is not eligible for retro Medicaid for the months of July 1, 2016 through September 30, 2016.

This decision does not change your child's current eligibility for or enrollment in a Child Health Plus plan, or the monthly premium amount that you pay for your child's Child Health Plus plan.

You may have additional options outside of the Appeals Unit of New York State of Health, such as through your plan or through the Department of Financial Services.

### **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 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).

## **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 October 16, 2016, eligibility determination notice is **AFFIRMED**.

Your child remains eligible for Child Health Plus with a \$45.00 per month premium.

Your child is not eligible for retro Medicaid for the months of July 1, 2016 through September 30, 2016.

Your appeal of whether your child's Child Health Plus plan should cover medical costs incurred as a result of your child's injury and subsequent treatment in Connecticut is **DISMISSED**.

This decision does not change your child's current eligibility for or enrollment in a Child Health Plus plan, or the monthly premium amount that you pay for your child's Child Health Plus plan.

You may have additional options outside of the Appeals Unit of New York State of Health, such as through your plan or through the Department of Financial Services.

## **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:**

