



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

Notice of Decision

Decision Date: January 11, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000013334

[REDACTED]

[REDACTED]

On December 19, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's October 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 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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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 son was eligible to enroll in Child Health Plus with a \$9.00 per month premium, effective November 1, 2016?

Did NYSOH properly determine that your son was not eligible for Medicaid?

Procedural History

On October 10, 2016, NYSOH received your completed application for health insurance.

On October 12, 2016, NYSOH issued an eligibility determination notice based on the information contained in the October 10, 2016 application, stating that your son was eligible for Child Health Plus, with a \$9.00 monthly premium, effective November 1, 2016. The notice stated that your son was not eligible for Medicaid.

On November 17, 2016, you contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as you are seeking Medicaid coverage for your son.

On December 15, 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.

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On December 19, 2016, you had an adjourned telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. Under oath, you waived your right to formal notice of the 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 taxes with a tax filing status of head of household. You will claim your child as a dependent on that tax return.
- 2) You are seeking insurance for your son.
- 3) At the time of your October 10, 2016 application your son was 8 years old.
- 4) The application that was submitted on October 10, 2016 listed annual household income of \$33,000.00, consisting of \$33,000.00 you earn from your employment. You testified that this amount was correct.
- 5) You testified that your monthly income for October 2016 was \$2,750.00.
- 6) Your application states that you will not be taking any deductions on your 2016 tax return.
- 7) You testified that you will be claiming a deduction in 2016 for tuition and fees, however you are unsure of the specific amount.
- 8) Your application states that you live in Westchester County.

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.

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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 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).

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 \$9.00 per month premium.

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

In your October 10, 2016 application, you attested to an expected household income of \$33,000.00. The application also stated that your son is 8 years old. NYSOH relied on 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 FPL. Households with an income between 160% and 222% of the 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 \$33,000.00 is 207.16% of the 2015 FPL, NYSOH properly found your child to be eligible for Child Health Plus with a \$9.00 per month premium payment.

The second issue is whether NYSOH properly determined that your son was ineligible for Medicaid.

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 154% of the FPL for the applicable family size. Since, \$33,000.00 is 205.99% of the 2016 FPL for a two-person household, NYSOH properly found your child to be not eligible for Medicaid.

However, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

You testified that your gross income for October 2016 was \$2,750.00.

To be eligible for Medicaid, you would need to meet the non-financial criteria and have an income no greater than 154% of the FPL, which is \$2,056.00 per month. Since you testified that you earned \$2,750.00 in October 2016 you do not qualify for Medicaid on the basis of monthly income as of the date of your application.

Since the October 12, 2016 eligibility determination properly stated that, based on the information you provided, your son was eligible for Child Health Plus with a \$9.00 per month premium and your son was ineligible for Medicaid, it is correct and is **AFFIRMED**.

You stated in your NYSOH application that you were not claiming any deductions on your 2016 tax return. During the hearing, you stated that you were claiming a deduction in 2016 for tuition and fees, however you were unable to provide a specific amount. If you would like to add this deduction, you can update your NYSOH account.

Decision

The October 12, 2016 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: January 11, 2017

How this Decision Affects Your Eligibility

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

Your son is ineligible 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.

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If You Have Questions about this Decision (Customer Service Resources):

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Albany, NY 12211
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Summary

The October 12, 2016 eligibility determination notice is AFFIRMED.

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

Your son is ineligible 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:

