



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

## Notice of Decision

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000707

Decision Date: September 17, 2014

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On July 7, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's June 11, 2014 eligibility determination.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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 the 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 Federal regulation 45 CFR § 155.545(b).

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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Appeal Identification Number: AP000000000707

[REDACTED]  
[REDACTED]  
[REDACTED]

## Issue

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

Did the Marketplace properly find that the appellant's children remained eligible for Medicaid under Continuous Coverage as of June 10, 2014?

## Procedural History

The Marketplace received your application for health insurance for your children on June 10, 2014.

On June 10, 2014, the Marketplace made a preliminary determination that your children were eligible to remain in Medicaid under Continuous Coverage even though your household income is above the Medicaid limit. The Marketplace will continue Medicaid coverage until May 30, 2015.

On June 10, 2014, you spoke to the Marketplace's Customer Service Unit and an appeal was created regarding that determination.

On June 11, 2014, the Marketplace issued a notice of determination consistent with the preliminary determination made on June 10, 2014.

On July 7, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. During the hearing, translation services were provided by Korean Interpreter [REDACTED]. At that time, you testified that you were satisfied with the June 11, 2014 eligibility determination and withdrew your appeal on the record through sworn testimony. Because you did not wish to pursue your appeal the record was not fully developed as it otherwise would have been.

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## **Findings of Fact:**

On June 10, 2014, you applied for health insurance through the New York State of Health Marketplace for your children, [REDACTED] (10 years old) and [REDACTED] (5 years old). Based on an expected annual household income of \$26,346 for your family of four the Marketplace determined your children to be Medicaid eligible.

Subsequently, you modified your expected household income to \$81,250. Based on this change in expected income, a new determination was made that found even though your children would not be Medicaid eligible based on the new income amount, they remained eligible for Medicaid until May 30, 2015 under continuous coverage.

At the July 7, 2014 hearing you testified that you are satisfied with the Marketplace's June 11, 2014 eligibility determination for your children finding them eligible for Medicaid under Continuous Coverage and that you no longer wanted to pursue your appeal.

No written request for withdrawal has been uploaded to your account.

## **Applicable Law and Regulations**

A child who is at least one year of age but younger than nineteen is eligible for Medicaid if his or her household's modified adjusted gross income falls at or below 154% of the federal poverty level (FPL) (42 CFR § 435.118(c); New York Department of Social Services Administrative Directive 13ADM-03).

The household size for a person who expects to be claimed as a tax dependent by another taxpayer is generally the household size of the taxpayer claiming that person as a tax dependent (42 CFR § 435.603(f)(2)).

The FPL for a four-person household was \$23,850.00 in June, 2014 (79 Fed. Reg. 3593).

Children under the age of nineteen who are determined eligible for Medicaid remain eligible for Medicaid until the earlier of: (1) the last day of the month which is twelve months following the determination of eligibility for Medicaid or (2) the last day of the month in which the child reaches the age of nineteen (N.Y. Social Services Law § 366(4)(b)(3)).

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The Appeals Unit must dismiss an appeal if the appellant withdraws the appeal request in writing (45 CFR § 155.530(a)(1)).

## **Legal Analysis**

To withdraw an appeal as of the date of your hearing, the Appeals Unit must receive a withdrawal in writing by the appellant (45 CFR § 155.530(a)(1)). Under oath, you orally withdrew your appeal stating that you no longer wished to pursue it. However, since a written withdrawal, as required at that time, has not been received to date, this decision is being issued.

The June 11, 2014 notice determined that your children were no longer eligible for Medicaid but would continue being covered by Medicaid until May 30, 2015.

According to your testimony at the hearing, you are satisfied with the Marketplace's June 11, 2014 eligibility determination and confirmed that you wanted to withdraw your appeal.

At issue is whether the Marketplace correctly found your children eligible for Medicaid and whether they remained eligible for Medicaid after your household income increased.

There are four people in your tax household: you, your spouse, and your two children. Since the children are claimed as dependents on your tax return, the household size for each child is the same as your own household size. Therefore the children's eligibility for benefits is calculated on a four-person household.

A child who is under the age of nineteen qualifies for Medicaid if the household income is no more than 154% of the FPL. Since the FPL for a four-person household is \$23,850.00 (100% of FPL), each child is Medicaid eligible at a household modified adjusted gross income of up to \$36,729.00 (154% of FPL, to the nearest dollar).

When you submitted the health insurance application on June 10, 2014, you indicated a household income of \$26,346.00. Because your income was under the applicable limit each child was determined eligible for Medicaid.

Subsequent to your initial application you indicated an increase in household income to \$81,250.00, which is above the limit for Medicaid eligibility. However, under New York State's Social Services Law, a child under the age of nineteen who is determined to be eligible for Medicaid remains eligible for twelve months after that determination, unless the child reaches the age of nineteen during that period. This Medicaid coverage continues even when, as here, the household's income increases above 154% of the FPL.

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Since the children qualified for Medicaid on June 10, 2014, and since none of them will reach the age of nineteen in the next year, their Medicaid coverage continues until May 30, 2015 by operation of the Social Services Law. Therefore the June 11, 2014 notice finding that your children retained their Medicaid coverage is AFFIRMED.

Therefore, the June 11, 2014 eligibility determination is AFFIRMED.

## **Decision**

The June 11, 2014 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** September 17, 2014

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

The June 11, 2014 eligibility determination remains in effect.

Your children remain eligible for Medicaid and their coverage, beginning on June 1, 2014, will continue in effect until May 30, 2015. If you have not done so, you must choose a plan for your children or one will be chosen for you.

## **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.

If you do not agree with this Decision, you have the right to appeal outside the Marketplace and may:

- Make an appeal request to the U.S. Department of Health and Human Services appeals entity within 30 days of the date of the Decision Date, which appears on the first page of the Decision (45 CFR § 155.520[c]).

AND/OR

- Bring a lawsuit in state court in accordance with Article 78 of the Civil Practice Law and Rules within four months after the date of the Decision Date, which appears on the first page of the Decision.

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 for assistance.

### **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 June 11, 2014 eligibility determination is AFFIRMED.

Your children's Medicaid coverage began on June 1, 2014 and will continue in effect until May 30, 2015. If you have not done so, you must choose a plan for your children or one will be chosen for you.

### **Legal Authority**

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(a).

**A Copy of this Decision Has Been Provided To:**

[REDACTED]  
[REDACTED]  
[REDACTED]