



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

Notice of Decision

Decision Date: October 3, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000719

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On July 14, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's June 11, 2014 eligibility determination and the February 28, 2014 eligibility determination in account number [REDACTED].

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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[REDACTED]
[REDACTED]
[REDACTED]

Issues

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

Did the Marketplace properly determine that [REDACTED] would continue to be enrolled in Medicaid as of June 11, 2014?

Did the Marketplace properly determine that [REDACTED] was not eligible for Child Health Plus (CHP) coverage as of June 11, 2014?

Procedural History

Under his mother's Marketplace account ([REDACTED]), your son, [REDACTED] was determined eligible for Medicaid as of February 19, 2014, with coverage scheduled to begin on February 1, 2014. This preliminary determination was prepared based, in part, upon a reported household income of \$0.00.

On February 28, 2014, the Marketplace issued a notice setting out the eligibility determination in [REDACTED]

On February 19, 2014, the account holder for [REDACTED] modified her application to remove [REDACTED] from her household.

The Marketplace received your initial application for health insurance on February 21, 2014. This application indicated a household composed of yourself; your son, [REDACTED]; and your daughter, [REDACTED]. You attested to an expected income of

\$43,374.00 on the application. Insurance coverage was requested only for yourself and [REDACTED].

On February 22, 2014, the Marketplace issued a notice stating that you were eligible to enroll in a qualified health plan through the Marketplace and to receive up to \$71.00 in Advance Premium Tax Credit (APTC), based on reported income of \$43,374.00.

On May 13, 2014, you made multiple changes to your application, reporting an expected income that ranged from \$46,000.00 to \$48,374.00.

On May 14, 2014, your income was reported in your application as \$46,000.00.

On May 15, 2014, the Marketplace issued a notice of eligibility redetermination. It said your son's Medicaid coverage would continue until January 28, 2015. The notice advised you that this was because "certain individuals who have been determined eligible for Medicaid remain eligible for benefits for twelve continuous months from the date that they were determined eligible."

On May 20, 2014; May 23, 2014; May 24, 2014; and June 11, 2014, the Marketplace issued additional notices of eligibility redetermination. Their findings were consistent with those stated in the May 15, 2014 notice of eligibility redetermination.

On June 18, 2014, you spoke with the Marketplace's Customer Service Unit and appealed the June 11, 2014 eligibility redetermination.

On June 14, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during that 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 are single and have two children (NYSOH Exhibit A, pp. 3, 19; Appellant's testimony 7/14/14).
- 2) You live with your son, [REDACTED]; your daughter, [REDACTED]; and the mother of the two children (Appellant's testimony 7/14/14).
- 3) [REDACTED] was born on March 25, 2013 (NYSOH Exhibit A, pp. 5, 21; Appellant's testimony 7/14/14).

- 4) You expect to file a U.S. Income Tax return for 2014, file as “head of household,” and claim your two children as dependents (NYSOH Exhibit A, pp. 3, 19; Appellant’s testimony 7/14/14).
- 5) Your expected 2014 income is \$46,000.00 (NYSOH Exhibit A, pg. 3; Appellant’s testimony 7/14/14).
- 6) You are currently seeking health insurance only for your son, [REDACTED]
- 7) You testified that your son was originally included in his mother’s Marketplace application for health insurance. You further testified that, on or about February 19, 2014, your son’s name was removed from his mother’s account and added to your own account (Appellant’s testimony 7/14/14).
- 8) Your son was determined eligible for Medicaid coverage under his mother’s Marketplace account [REDACTED], with coverage scheduled to begin on February 1, 2014 (NYSOH Exhibit B, pgs. 3-14).
- 9) On your February 21, 2014 Marketplace application you identified [REDACTED] as your son and [REDACTED] as your child and [REDACTED] sibling. On that application you attested to an expected 2014 income of \$43,374.00.
- 10) You contend that your son should be eligible for Child Health Plus (CHP) coverage and that you want him to be treated by a certain pediatrician who does not accept Medicaid (Appellant’s testimony 7/14/14).
- 11) You currently reside in Putnam county.

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

Applicable Law and Regulations

The Marketplace must determine an applicant eligible for Medicaid if he or she meets the nonfinancial eligibility criteria for Medicaid, has a household income that is at or below the applicable Medicaid MAGI-based income standard, and is under the age of 19 (45 CFR § 155.305(c)(2); see also N.Y. Soc. Serv. Law § 366(1)(b)).

“MAGI’ means modified adjusted gross income” (N.Y. Soc. Serv. Law § 366(1)(a)(6)).

“MAGI household income’ means, with respect to an individual whose medical assistance eligibility is based on modified adjusted gross income, the sum of the

MAGI-based income of every person included in the individual's MAGI household, except that it shall not include the MAGI-based income of the [certain] persons [who] are not expected to be required to file a tax return in the taxable year in which eligibility for medical assistance is being determined" (N.Y. Soc. Serv. Law § 366(1)(a)(8)).

Infants under the age of one are eligible for Medicaid with a MAGI household income up to 223% of the federal poverty level for the applicable family size (13 ADM-03 - Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010 (III)(B)(1)(b), 9/25/13; see *also* NY Social Services Law § 366(1)(b)(2); 42 CFR § 457.310(b)(1)(i)).

In the case where a child is claimed by one parent as a dependent and who is living with both parents who are not filing a joint tax return (42 CFR § 435.603(f)(2)(ii)), the child's family includes the following persons, if living with the child: (1) the child's parents, (2) the child's spouse, (3) the child's children and siblings under the age of 19, or 21 if a full-time student (42 CFR § 435.603(f)(3)).

The 2014 federal poverty level for a four-person household is \$23,850.00 (79 Fed. Reg. 3593).

To be eligible to enroll in Child Health Plus, a child must not be "eligible for medical assistance," that is, a child must not be eligible for Medicaid (NY Public Health Law § 2511(2)(b)).

All Medicaid-eligible children under the age of 19 are provided with 12 months of continuous coverage, even if the household's income increases above eligibility levels during that period (NY Social Services Law § 366(4)(b)(3)(i)).

Legal Analysis

The issue on appeal is whether the Marketplace correctly determined that, as of June 11, 2014, ██████████ was eligible for Medicaid coverage and ineligible for Child Health Plus.

There is no contention, and there is no indication in the record, that ██████████ fails to meet any of the nonfinancial criteria for Medicaid eligibility.

Insurance coverage was first requested for ██████████ on his mother's February 19, 2014 application. That application indicated a two-person household with a household income of \$0.00. The Marketplace relied upon that information to find both ██████████ and his mother eligible for Medicaid.

Insurance coverage was again requested for [REDACTED] on your own February 21, 2014 application. You, [REDACTED] (sibling), were listed as household members. On the application you attested to a household income of \$43,374.00.

You credibly testified that when [REDACTED] mother submitted her insurance application to the Marketplace, [REDACTED] lived with you, his mother, and his sister. Accordingly, for purposes of this analysis, your son is a member of a four-person household.

On February 20 and February 21, [REDACTED] was approximately 11 months old. Because he was under one year old, he would qualify for Medicaid at a household income up to 223% of the federal poverty level (FPL). Since the 2014 FPL is \$23,850.00, he would be Medicaid eligible at a household income up to \$53,185.50.

You testified that your expected 2014 household income is now \$46,000.00, but even at that level [REDACTED] would have qualified for Medicaid on the date of his applications.

Therefore, all credible evidence of record confirms that [REDACTED] was eligible for Medicaid when his mother requested coverage for him on February 19, 2014 and when you requested coverage for him on February 21, 2014.

When [REDACTED] was determined to be eligible for Medicaid during February 2014, his coverage began as of the first date of that month. Under the continuous coverage provision of New York State's Social Services Law, that coverage remains in effect for 12 months. Thus, [REDACTED] Medicaid continuous coverage was properly in effect when the Marketplace made the redetermination that became the basis of the June 11, 2014 notice.

Under New York State's Public Health Law, [REDACTED] is not eligible to enroll in Child Health Plus as long as he remains Medicaid eligible.

Accordingly, the June 11, 2014 notice of eligibility determination that [REDACTED] was eligible for Medicaid and ineligible for Child Health Plus was correct and is AFFIRMED.

Decision

The June 11, 2014 eligibility determination is AFFIRMED.

Effective Date of this Decision: October 3, 2014

How this Decision Affects Eligibility

██████████ eligibility has not been changed by this decision.

██████ remains eligible for Medicaid under the continuous coverage provision, and he is not eligible to enroll in Child Health Plus while he remains Medicaid eligible.

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:

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- By fax: 1-855-900-5557

Summary

The June 11, 2014 eligibility determination is AFFIRMED.

██████████ eligibility has not been changed by this decision.

██████ remains eligible for Medicaid under the continuous coverage provision, and he is not eligible to enroll in Child Health Plus while he remains Medicaid eligible.

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]