



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

Notice of Decision

Decision Date: November 28, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000813

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On September 17, 2014, you appeared by telephone at a hearing on your appeal of the NY State of Health Marketplace's August 9, 2014 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 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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NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000813

[REDACTED]
[REDACTED]
[REDACTED]

Issue

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

Did the Marketplace properly determine that, as of June 19, 2014, [REDACTED] three children were Medicaid eligible?

Did the Marketplace properly determine that [REDACTED] three children remained eligible for Medicaid as stated in the August 9, 2014 notice?

Procedural History

The Marketplace received your initial application for health insurance on March 12, 2014, for yourself, your spouse, and your three children. That application was modified on June 19, 2014.

On June 20, 2014, the Marketplace issued two notices of eligibility determination. The notice addressing your children’s eligibility stated that all three children were eligible for Medicaid with coverage starting on March 1, 2014. This determination was based on an attested household income of \$42,732.00. The notice further stated that the children could not be enrolled in Medicaid Managed Care because they had comprehensive third-party health insurance.

On July 7, 2014, your Marketplace application was modified several times. On the final July 7 version you attested to an expected income of \$64,000.00. The application was submitted again, on July 14, 2014, and on August 8, 2014, and the expected annual income was listed as \$64,000.00 each time.

On July 8, 2014 and July 15, 2014, the Marketplace issued determination notices stating that although your children no longer qualified for Medicaid, their existing coverage would continue until August 30, 2015.

On August 8, 2014, you spoke with the Marketplace's Customer Service Unit and appealed the August 8, 2014 preliminary determination.

On August 9, 2014, the Marketplace issued an eligibility determination that reflected the August 8, 2014 preliminary determination and stated that although your children no longer qualified for Medicaid, their existing coverage would continue until August 30, 2015.

On September 17, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and left open for 15 days to allow you to submit supporting evidence. The Marketplace's Appeals Unit did not receive your supporting evidence and the record was closed on October 2, 2014.

Findings of Fact

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

- 1) You are currently married and have three children.
- 2) Your August 8, 2014 Marketplace application reflects that you expect to file jointly with your spouse for the 2014 tax year. You and your spouse also expect to claim your three children as dependents for the 2014 tax year.
- 3) You testified that your spouse is self-employed and you work for your spouse.
- 4) You applied for insurance through the Marketplace on June 19, 2014 for yourself, your spouse, and your three children. In your Marketplace application, you attested to an expected income of \$12,000.00 for yourself and \$30,732.00 for your spouse.
- 5) You testified that the joint income you included in your June 19, 2014 application of \$42,732.00 was based on your 2013 tax return, which reflected a slow year. You further testified that you needed to speak with your bookkeeper in order to calculate what your anticipated income would be for your household for 2014 as you were having a better year. You testified that you were not aware that an application was submitted on June 19, 2014 for you and your family based on your previous income.

You also testified that you were not able to provide an accurate income until you spoke to your bookkeeper in July 2014.

- 6) You testified that after you spoke with your bookkeeper in July, you submitted an application for health insurance for your family through the Marketplace with an expected household income of \$64,000.00. You testified that this income is an accurate reflection of your expected income for 2014.
- 7) You testified that you had coverage through a third party until July 1, 2014. You also testified that you and your family were going on a trip and needed health insurance for the month of July, therefore you enrolled in an Oxford plan. You testified that you discontinued your coverage through Oxford at the end of July 2014 and your family has not been covered through any third party health insurance as of August 1, 2014.

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

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 (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)).

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 2014 FPL, which is \$27,910.00 for a five-person household (79 Fed. Reg. 3593, 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)).

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

Legal Analysis

The issues are whether the Marketplace correctly found your three children eligible for Medicaid and whether they remained eligible for Medicaid after your household income was amended.

There are five people in your tax household: you, your spouse, and your three minor 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 is calculated based on a five-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 federal poverty level. Since the federal poverty level for a five-person household is \$27,910.00 (100% of the federal poverty level), each child is Medicaid eligible at a household modified adjusted gross income of up to \$42,981.00 (154% of the federal poverty level, to the nearest dollar).

When you submitted your health insurance application on June 19, 2014, you indicated a household income of \$42,732.00 (153.11% of the federal poverty level), so each child was determined eligible for Medicaid.

However, during your September 17, 2014 hearing, you credibly testified that the expected 2014 income in your June 19, 2014 application was not accurate because it came from your 2013 tax return and that your household income has been higher this year. You explained that your spouse is self-employed, that you work for him, and that you could not accurately determine your 2014 expected income until you spoke to your bookkeeper during July 2014.

You testified that after you spoke with the bookkeeper, you were able to determine that your expected household income for 2014 would be \$64,000.00. On July 7, 2014, once you had this reliable estimate, you returned to your Marketplace account to complete your application with the correct information. However, since the children were deemed to be Medicaid eligible on the defective June 19, 2014 application, a determination was made that they remained eligible, under continuous coverage, despite the correction to your application.

Since the record credibly shows that your June 19, 2014 application contained defective information, the June 20, 2014 eligibility determination that relies on it is likewise defective and is **RESCINDED**.

The August 9, 2014 determination that your children remained Medicaid eligible rests solely on the validity of the June 20, 2014 eligibility determination.

Since the July 20, 2014 determination has been rescinded, the August 9, 2014 determination lacks a basis in the record and is also RESCINDED.

Your case is RETURNED to the Marketplace for a redetermination of your children's eligibility based on a household income of \$64,000.00.

Decision

The eligibility determinations dated June 20, 2014 and July 19, 2014 are RESCINDED.

Your case is RETURNED to the Marketplace for a redetermination of your children's eligibility based on an expected household income of \$64,000.00.

Effective Date of this Decision: November 28, 2014

How this Decision Affects Your Eligibility

The decisions that your children were, and remained, Medicaid eligible were based on inaccurate information in your application and are no longer in effect.

This decision does not make a final determination on your children's eligibility, but it sends your case back to the Marketplace for redetermination of their eligibility for based on a five-person household with an expected 2014 household income of \$64,000.00.

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]).

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).

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 eligibility determinations dated June 20, 2014 and July 19, 2014 are **RESCINDED**.

Your case is **RETURNED** to the Marketplace for a redetermination of your children's eligibility based on an expected household income of \$64,000.00.

The decisions that your children were, and remained, Medicaid eligible were based on inaccurate information in your application and are no longer in effect.

This decision does not make a final determination on your children's eligibility, but it sends your case back to the Marketplace for redetermination of their eligibility for based on a five-person household with an expected 2014 household income of \$64,000.00.

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Legal Authority

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A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]