



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

Notice of Decision

Decision Date: January 30, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001062

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On November 24, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's September 16, 2014 preliminary determination and November 27, 2014 notice of 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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[REDACTED]
[REDACTED]
[REDACTED]

Issue

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

Did the Marketplace properly determine that you, your spouse, and your daughter were eligible for Medicaid as of September 16, 2014 and October 20, 2014?

Procedural History

According to a notice issued by the Marketplace on November 6, 2013, you and your spouse were eligible to enroll in a qualified health plan through the Marketplace, with up to \$672.00 per month in advance premium tax credit and, provided you enrolled in a silver-level plan, for cost-sharing reductions.

On September 16, 2014, your account was modified to include your newborn daughter and your eligibility was redetermined, using the same \$25,455.00 household income and deductions listed on your original application. All three of you were found to be eligible for Medicaid in a preliminary determination prepared that same day.

On October 20, 2014, income information in your account was updated four times. The applications were submitted with household incomes of \$24,300.00, \$28,300.00, and \$28,750.00 (twice). The Marketplace made four preliminary eligibility determinations: all four stated that your daughter was Medicaid eligible; three of the four gave you and your wife Medicaid, while the fourth approved an advance premium tax credit for you and your wife as of January 1, 2015.

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On October 20, 2014, you spoke the Marketplace's Account Review unit and asked that your coverage not change to Medicaid. On October 27, 2014, an appeal was filed regarding your September 16, 2014 and October 20, 2014 preliminary determinations.

On November 7, 2014, the Marketplace issued a Notice of Telephone Hearing to advise you that the hearing you requested was scheduled for November 24, 2014 at 9:00 p.m.

On November 24, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. At that time, you stated that you had not received a hearing notice, but you waived your right to written notice and decided to proceed with your hearing. The record was developed during the hearing and closed at the end of the hearing.

On November 27, 2014, an eligibility determination was issued based on the October 20, 2014 preliminary eligibility determinations. The notice stated that you and your wife were no longer eligible for Medicaid, but that your Medicaid coverage would continue. The notice also stated that your child remained conditionally eligible for Medicaid as of October 12, 2014, pending receipt of additional information on her citizenship status and social security number.

Findings of Fact

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

1. You testified that you are appealing your own, your wife's, and your daughter's eligibility determinations.
2. You testified that you plan on filing your 2014 taxes with a tax filing status of married, filing jointly. You further testified that you will claim your daughter as a dependent on that tax return.
3. In your application, it is indicated that you are self-employed.
4. You testified that from January 1, 2014 to September 16, 2014, you and your wife were enrolled in Emblem Silver health plan and paid monthly premiums to that plan.
5. You testified that your daughter was [REDACTED].
6. You testified that on September 16, 2014, you called the Marketplace Customer Service Unit to add your daughter to your Marketplace account. Aside from changing the number of people in your household from two to three, your household's eligibility was redetermined with the same

information that was provided on your October 12, 2013 application. On September 16, 2014, the Marketplace determined that you, your wife, and your child were eligible for Medicaid.

7. You testified that the household income you had listed in your application up until October 20, 2014 was based on your tax information from 2013.
8. You testified that you expect your 2014 gross income to be \$42,000.00.
9. You testified that your wife expects gross income of \$1,000.00 for 2014.
10. You testified that on your 2014 income tax return you and you wife expect to claim a \$5,000.00 in business deductions, \$1,500.00 in student loan interest deductions, and \$2,000.00 in tuition and fees deduction.
11. You testified that you expect your 2015 household income to be similar to your attested 2014 income.
12. You testified that you, your wife, and your child reside in Richmond County.

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

Applicable Law and Regulations

Medicaid for Adults between the Ages of 19 and 65

Medicaid through the Marketplace can be provided to adults who: (1) are age 19 or older and under age 65; (2) are not pregnant; (3) are not entitled to or enrolled for Medicare benefits under part A or B of title XVIII of the Act; (4) are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part; and (5) have a household modified adjusted gross income (MAGI) that is at or below 138% of the federal poverty level (FPL) for the applicable family size (42 CFR §§ 435.119(b), 435.911(b)(1), 435.603(d)(4); N.Y. Soc. Serv. Law § 366(1)(b)).

“Adjusted gross income” is the gross income of the taxpayer minus the deductions permitted (26 USC § 62). Subject to some limitations, interest on a qualified educational loan may be deducted from adjusted gross income in an amount up to \$2,500 in interest paid by taxpayers during the taxable year, for taxpayers whose yearly income does not exceed \$160,000 (26 USC § 221; see also (26 USC § 62 (a)(17))). Deductions that are attributable to a trade or business are also allowed (26 USC § 62 (a)(1)).

Most adults determined eligible for Medicaid are guaranteed twelve months of Medicaid coverage even if they lose Medicaid eligibility because of any changes or updates they make to their Marketplace account. For example, even if income increases above the Medicaid limit allowed for the household size, the insured will remain covered under Medicaid for a twelve-month period. This twelve-month period is referred to as “continuous coverage” and is set based on the start date of the original Medicaid eligibility determination or the date of a subsequent Medicaid eligibility determination based on modified adjusted gross income (N.Y. Soc. Serv. Law § 366(4)(c)).

People who receive or are eligible for Medicaid are not eligible for an advance premium tax credit (APTC) (see 45 CFR § 155.305(f)(1)(ii)(B), 26 CFR § 1.36B-2(c)(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 applications of September 16, 2014 and October 20, 2014, that was the 2014 FPL, which is \$19,790.00 for a three-person household (79 Fed. Reg. 3593, 3593).

Medicaid Eligibility for Children under One Year of Age

Infants under the age of one are eligible for Medicaid with a MAGI household income up to 223% of the FPL for the applicable family size (13 OHIP/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)).

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 (N.Y. Soc. Serv. Law § 366(4)(b)(3)(i)).

Legal Analysis

The first issue is whether or not the Marketplace correctly found you and your wife eligible for Medicaid as of September 16, 2014.

According to the record, you and your spouse expect to file your 2014 federal income tax return as married filing jointly and claim your infant daughter as your only dependent.

On September 16, 2014, your account was modified to add your newborn daughter, but in your application your expected household income was left at \$25,455.00, the figure given on your original application. According to the

application resubmitted on September 16, 2014, your expected income for 2014 was \$25,455.00, and the Marketplace relied upon that information.

Since your daughter was born [REDACTED], you, your wife, and your daughter were in a three-person household.

You and your spouse would qualify for Medicaid if you met the nonfinancial criteria and had a household income no higher than 138% of the federal poverty level (FPL) for a three-person household. Since the 2014 FPL for a three-person household is \$19,790.00, you would be eligible for Medicaid at an income of up to \$27,310.00. Therefore, the Marketplace properly determined based on your application that, with a household income of \$25,455.00, you and your spouse were eligible for Medicaid.

On September 16, 2014, your newborn daughter would qualify for Medicaid with a household income up to 223% of the FPL. Since the 2014 FPL is \$19,790.00, she would qualify at an income up to \$44,132.00. Therefore, the Marketplace correctly determined that, with a household income of \$25,455.00, your daughter was eligible for Medicaid.

In New York State, once a person is eligible for Medicaid, that eligibility continues for 12 months, even if the household income rises above 138% (223% for an infant under the age of 1 year old) of the FPL. This provision is called “continuous coverage.”

Therefore, once the Marketplace properly determined that you and your family members were eligible for Medicaid, you were properly found to still be covered under Medicaid during 2014, as stated in the November 27, 2014 notice of eligibility determination.

Decision

The September 16, 2014 preliminary determination is AFFIRMED.

The November 27, 2014 notice of eligibility determination is AFFIRMED.

Effective Date of this Decision: January 30, 2015

How this Decision Affects Your Eligibility

This decision does not change your eligibility. As of September 16, 2014 and October 20, 2014, you, your spouse, and your daughter were eligible for Medicaid.

This decision does not affect any notice of eligibility determination issued after November 27, 2014.

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 after the date 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 date 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 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

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Summary

This decision does not change your eligibility. As of September 16, 2014 and October 20, 2014, you, your spouse, and your daughter were eligible for Medicaid.

This decision does not affect any notice of eligibility determination issued after November 27, 2014.

This decision does not change your eligibility. As of September 16, 2014 and October 20, 2014, you, your spouse, and your daughter were eligible for Medicaid.

This decision does not affect any notice of eligibility determination issued after November 27, 2014.

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]