



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

Notice of Decision

Decision Date: April 8, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001177

[REDACTED]
[REDACTED]
[REDACTED]

Dear Mr. [REDACTED],

On January 7, 2015, your spouse appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 2, 2014 notice of eligibility redetermination.

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]
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Issues

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

Did the Marketplace properly determine that your son was conditionally eligible for Medicaid coverage as of December 2, 2014?

Did the Marketplace properly determine that your son was not eligible for Child Health Plus (CHP) coverage as of December 2, 2014?

Procedural History

On November 17, 2014, the Marketplace received three applications for health insurance. These applications, in chronological order, included an expected household income that changed from \$59,800.00 to \$46,800.00, and then to \$44,200.00.

On November 17, 2014, the Marketplace prepared preliminary determinations based on each of your November 17, 2014 applications. On your last application you reported an income of \$44,200.00 and requested health insurance for all three members of your family. The Marketplace determined that your son was not eligible for financial assistance, and that you and your spouse were eligible for up to \$108.00 per month in advance premium tax credit.

On December 1, 2014, the Marketplace received a revised application in which you reported an expected household income of \$40,000.00.

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).

On December 2, 2014, the Marketplace issued a notice of eligibility redetermination based on your December 1, 2014 application. It stated that you and your spouse were eligible to receive up to \$531.00 per month in advance premium tax credits and that your son was conditionally eligible for Medicaid, with his coverage beginning on December 1, 2014. It further stated that in order to confirm his eligibility for Medicaid, you must provide "Benefit information for Third Party Health Insurance" by December 18, 2014.

On December 5, 2014, the Marketplace issued a notice of eligibility redetermination on your final November 17, 2014 application. It stated, among other things, that while your son was eligible to enroll in a qualified health plan (QHP) at full cost, he was "not eligible for Medicaid because the household income you provided to us of \$44,200.00 is over the allowable income limit of \$27,310.00." You were eligible for an advance premium tax credit, but your spouse was not, because she was "either already enrolled in ESI [employer sponsored insurance] or [she had] access to affordable coverage that costs less than 9.5% of your income."

On December 12, 2014, you spoke with the Marketplace's Account Review Unit to appeal the December 2, 2014 eligibility redetermination insofar as it found your son eligible for Medicaid rather than for coverage through Child Health Plus.

On January 7, 2015, 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.

On January 9, 2015, the Marketplace issued a confirmation that you and your spouse were enrolled in a health care plan and receiving up to \$531.00 in advance premium tax credit and that your son's Medicaid eligibility began on December 1, 2015.

Findings of Fact

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

- 1) You are married and have one child (Marketplace application; 1/7/15 testimony).
- 2) Your son was born on [REDACTED] (Marketplace application; 1/7/15 testimony).
- 3) You lived with your spouse and son during 2014 (Marketplace application; 1/7/15 testimony).

- 4) You plan to file your 2015 federal income tax return jointly with your spouse and claim your son as your dependent for 2014 (Marketplace application; 1/7/15 testimony).
- 5) Your spouse testified that you were assisted by a navigator in submitting all of your Marketplace applications.
- 6) Your spouse testified, and the record reflects, that you submitted multiple applications on November 17, 2014. In these applications you attested to a range of annual household incomes from \$44,200.00 to \$59,800.00 for 2014 (Marketplace application; 1/7/15 testimony).
- 7) Your spouse testified, and record reflects that, you submitted a single revised application on December 1, 2014. In this application you attested to an annual household income of \$40,000.00, which is based on (1) \$20,000.00 in expected earnings from The [REDACTED] [REDACTED] and (2) \$20,000.00 in expected earnings from [REDACTED], [REDACTED] (Marketplace application; 1/7/15 testimony).
- 8) Your spouse testified that the range of expected earnings reported in your multiple applications provided to the Marketplace on November 17, 2014, from \$44,200.00 to \$59,800.00, were merely rough estimates provided to the navigator for entry into your application (1/7/15 testimony).
- 9) Your spouse testified that the \$40,000.00 income amount reported in your December 1, 2014 application was based on paystub information that you provided to the navigator. Your spouse further testified that \$40,000.00 in expected income for 2015 was accurate at the time the December 1, 2014 application was submitted and that there has been no change in your expected household income level (1/7/15 testimony).
- 10) Your spouse testified that she has been unemployed since she resigned from her position with [REDACTED] in March 2014 (1/7/15 testimony).
- 11) Your spouse testified, and the record reflects, that she has remained covered under her former employer's health insurance policy through COBRA and that your son was covered under that policy until at least December 31, 2014 (Marketplace application; 1/7/15 testimony).

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

Applicable Law and Regulations

Medicaid

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Medicaid can be provided through the Marketplace 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, (4) are not otherwise eligible for and enrolled for mandatory coverage under Medicaid, and (5) have a household modified adjusted gross income that is at or below 138% of the current federal poverty level (FPL) for the applicable family size (42 CFR §§ 435.119(b), 435.603(d)(4); N.Y. Soc. Serv. Law § 366(1)(b)).

Medicaid is available to an infant under one year of age who is in a household with a modified adjusted gross income up to 223% of the current FPL for the applicable family size (see 42 CFR § 435.118(d); NY Department of Health Administrative Directive 13 ADM-03).

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). As of your application, that was the 2014 FPL, which is \$19,790.00 for a three-person household (79 Fed. Reg. 3593, 3593).

Child Health Plus

A child may be eligible for coverage through Child Health Plus (CHP) provided (1) he or she lives in a household having a household income at or below 400% of the FPL and (2) is not eligible for medical assistance (Medicaid), except that a child who becomes eligible for Medicaid after becoming eligible for CHP, may be eligible for a subsidy payment for a period of three months after becoming eligible for such medical assistance (NY Public Health Law § 2511(2)(b) and (3)).

To be eligible to enroll in CHP, 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 issue on appeal is whether the Marketplace correctly determined that, as of December 2, 2014, [REDACTED] was conditionally eligible for Medicaid and not eligible for Child Health Plus (CHP).

Your spouse credibly testified that you expect to file a joint tax return for 2015 and claim your son as your dependent. Accordingly, your son is a member of a three-person household.

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

On your December 1, 2014 application, your spouse attested to a household income of \$40,000.00. The Marketplace relied upon that information to find your son conditionally eligible for Medicaid. His eligibility was conditional because the Marketplace needed additional documentation to confirm his "Benefit information for Third Party Health Insurance." The Marketplace asked you provide that documentation by December 18, 2014.

As of the December 1, 2014 application, [REDACTED] was approximately 4 months old. At less than one year of age, he would qualify for Medicaid at a household income up to 223% of the federal poverty level (FPL). Since the 2014 FPL for a three-person household is \$19,790.00, he was Medicaid eligible at a household income up to \$44,131.70.

Your spouse credibly testified that your expected 2015 household income was accurately reported as \$40,000.00 in your December 1, 2014 application, and that the income amounts provided in your November 17, 2014 applications were based on less precise estimates.

Therefore, all credible evidence of record confirms that your son was conditionally eligible for Medicaid as of December 1, 2014.

Under New York State's Public Health Law, a Medicaid-eligible child does not qualify to enroll in health insurance through CHP.

Accordingly, the December 2, 2014 notice of eligibility determination that your son was conditionally eligible for Medicaid and ineligible for CHP was correct and is AFFIRMED.

Decision

The December 2, 2014 eligibility determination is AFFIRMED.

Effective Date of this Decision: April 8, 2015

How this Decision Affects Your Eligibility

[REDACTED] continues to be conditionally eligible for Medicaid coverage pending receipt of additional documentation to confirm his "Benefit information for Third Party Health Insurance."

[REDACTED] is not eligible to enroll in Child Health Plus while he remains eligible for Medicaid.

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).

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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P.O. Box 11729
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- By fax: 1-855-900-5557

Summary

The December 2, 2014 eligibility determination is AFFIRMED.

██████████ continues to be conditionally eligible for Medicaid coverage pending receipt of additional documentation to confirm his “Benefit information for Third Party Health Insurance.”

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██████████ is not eligible to enroll in Child Health Plus while he remains eligible for Medicaid.

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]