



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

Notice of Decision

Decision Date: April 7, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001182

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On January 6, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace’s December 12, 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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Issue

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

Did the Marketplace properly determine that your three children are eligible for Medicaid as of December 13, 2014?

Procedural History

You and your spouse had 2014 health insurance through New York State of Health with Silver Standard and your three children had coverage through Child Health Plus.

On November 6, 2014, the Marketplace issued a notice that it was time for your family to renew your New York State of Health coverage for 2015. That notice informed you to update the information in your account so that the Marketplace could determine your eligibility for financial assistance.

On December 11, 2014, you updated your Marketplace account. On December 12, 2014, the Marketplace issued an eligibility determination notice stating that, with an attested annual household income of \$46,092.04, you were conditionally eligible for an advance premium tax credit of up to \$199.00 per month and, if you enrolled in a silver level qualified health plan, for cost-sharing reductions beginning January 1, 2015. It also determined that your spouse was conditionally eligible for Medicaid beginning January 1, 2015. The notice further stated that additional information regarding your annual household income was needed.

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On December 12, 2014, the Marketplace also issued a notice requesting additional income information in order to determine 2015 eligibility for your three children.

On December 12, 2014, you uploaded your filed 2013 Schedule C from Form 1040.

On December 13, 2014, the Marketplace made a preliminary redetermination of your household's eligibility. You remained eligible for an advance premium tax credit (APTC), your wife remained eligible for Medicaid, and your children were found to be eligible for Medicaid.

That same day, you spoke with the Marketplace's Account Review Unit and appealed the Marketplace's December 13, 2014 preliminary redetermination, insofar as it found your children eligible for Medicaid.

On December 18, 2014, the Marketplace issued a letter confirming your enrollment in a qualified health plan beginning January 1, 2015, your wife's eligibility for Medicaid beginning January 1, 2015, and children's eligibility for Medicaid beginning December 1, 2014. The letter also informed you that your wife and children must choose their plans soon that plans would be selected for them.

On January 6, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and held open for up to 15 days to allow you the opportunity to submit proof of your 2013 adjusted gross income.

On January 7, 2015, the Marketplace's Appeal Unit received a three page fax from you. It consisted of (1) a cover page, (2) a second cover page, and 3) a copy of page 1 of your 2013 U.S. Individual Income Tax Return (Form 1040). This fax has been made part of the record as "Appellant's Exhibit B."

This being the only document you were directed to provide, the record was closed that same day.

Findings of Fact

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

- 1) You live with your spouse and three minor children in Schuyler County, New York.
- 2) Your wife is pregnant, and one child is expected during August 2015.
- 3) You plan on filing your 2014 and 2015 income tax returns as Married Filing Jointly, will claim three children as dependents for 2014, and claim four children as dependents for 2015.

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- 4) You testified that none of your children will be required to file an income tax return in either 2014 or 2015, because they had or will have no income.
- 5) You completed 2013 Schedule C (Form 1040), Profit and Loss from Business (██████████), which shows a net profit of \$60,751.00 from your business (Appellant's Exhibit A).
- 6) Page 1 of your 2013 U.S. Individual Income Tax Return (Form 1040), which shows an adjusted gross income of \$49,134.00 (Appellant's Exhibit B).
- 7) According to your Marketplace application, your expected earned income for 2014 is \$46,092.04, which consists of earned income of \$55,700.04 less self-employment deductions of \$9,608.00.
- 8) You testified that you expect your 2015 adjusted gross income will be within the range of your 2013 and 2014 adjusted gross incomes, but you cannot be certain.

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

Applicable Law and Regulations

When counting the number of people in a household to determine eligibility for Medicaid in New York, a pregnant woman is counted as one plus the number of children she expects to deliver (42 CFR § 435.603(b), (f)(3)(iv); NY Department of Social Services Admin Directive 13ADM-03).

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 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). On the date of your application, that was the 2014 FPL, which is \$31,970 for a six-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. Soc. Serv. Law § 366(4)(b)(3)).

A person who is eligible for minimum essential health insurance coverage through certain government-sponsored programs, including Medicaid, is not eligible for an advance premium tax credit (see 45 CFR 155.305(f), 26 CFR 1.36B-2(c)).

To be eligible to enroll in Child Health Plus (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 only issue raised on appeal is whether the Marketplace properly determined your children to be eligible for Medicaid.

In determining the household size for Medicaid eligibility in New York, a pregnant woman is counted as herself and the number of children she is expected to deliver, which in your case equals two people. Therefore, your three children are in a six-person household, which consists of you, your wife and unborn child, and themselves.

Children between the ages of 1 year old and 19 years old are eligible for Medicaid at up to 154% of the federal poverty level (FPL). Since the 2014 FPL for a six-person household is \$31,970.00, at a reported income of \$46,092.04, your household is at 144.17% of the FPL. At this income level, your children are eligible for Medicaid and ineligible for Child Health Plus (CHP).

Your children’s eligibility would not change even using your household’s highest reported annual income of \$49,134.00, which is 153.69% of the FPL for a six-person household.

Decision

The December 13, 2014 eligibility determination is AFFIRMED.

Effective Date of this Decision: April 7, 2015

How this Decision Affects Your Eligibility

Your three children remain eligible for Medicaid from December 1, 2014 to November 31, 2015.

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 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 December 13, 2014 eligibility determination is **AFFIRMED**.

Your three children remain eligible for Medicaid from December 1, 2014 to November 31, 2015.

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A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]