



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

## Notice of Decision

Decision Date: May 29, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001311

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On February 2, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's October 3, 2014 preliminary determination regarding your infant son's enrollment date for Medicaid.

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).

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## Decision

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NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001311

[REDACTED]  
[REDACTED]  
[REDACTED]

## Issue

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

Did the Marketplace properly determine on October 3, 2014, that your infant son was eligible for Medicaid coverage beginning October 1, 2014?

## Procedural History

On October 3, 2014, the Marketplace received an initial application for health insurance for yourself and your newborn son. The Marketplace made a preliminary determination that your son was eligible for Medicaid and stated that additional information must be submitted for that determination to be finalized. The Marketplace also indicated that a determination could not be made for you without additional information.

On October 4, 2014, you uploaded a copy of your spouse's health insurance card. It indicated that your spouse had coverage through his employer and that you and your elder son had coverage as his dependents.

On December 5, 2014, the Marketplace issued a notice of eligibility redetermination stating that you were eligible for an advance premium tax credit (APTC) effective January 1, 2015. It also stated that your infant son was conditionally eligible for Medicaid effective December 1, 2014 but that information on third-party health insurance was required by December 22, 2014.

On December 13, 2014, the Marketplace issued a notice of eligibility redetermination based on updated information it had received. You were found eligible for APTC and the APTC Premium Assistance Program, effective January

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1, 2015. Your infant son was found Medicaid eligible beginning December 1, 2014. The notice also stated that, since he was enrolled in comprehensive Third Party Health Insurance and that, to obtain additional benefits and services not covered by that insurance, he must use a Medicaid provider.

On December 22, 2014, the Marketplace again issued a notice of eligibility redetermination based on updated information it had received. The notice stated, in relevant part, that your infant son's coverage through Medicaid would end January 31, 2015, because his identity matched that of a person receiving public health insurance through the local Department of Social Services.

On December 31, 2014, you appealed the October 1, 2014 start date of your infant son's enrollment in Medicaid because he was born on [REDACTED] and he has hospital and medical bills for September as well as for October 2014.

On February 2, 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.

## **Findings of Fact**

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

- 1) You testified, and the record reflects, that you are married and live with your spouse and your two sons.
- 2) According to your testimony at the hearing, your husband expects his 2014 earnings to be \$24,000.00, which is less than he made and reported in 2013 because he changed jobs. This is supported by the income documentation you uploaded which shows your husband's year to date gross earnings as of October 31, 2014 to be \$20,002.01.
- 4) You testified that your son was born on [REDACTED].
- 5) According to the October 4, 2014 preliminary eligibility determination, your infant son was determined Medicaid eligible as of October 1, 2014.
- 6) According to your Marketplace application and your testimony, your infant son's coverage through your husband's employer became effective September 30, 2014.
- 6) You testified that your husband informed his insurance carrier of your son's birth about two weeks after his birth and only after you had received a Social Security number for your newborn son.

- 7) You testified that your spouse's insurance carrier backdated your infant son's coverage to September 26, 2014 and that this policy covers 80% of your infant son's hospital and medical bills.
- 7) You testified that you spoke with a Marketplace supervisor who told you that your infant son's Medicaid coverage could not be backdated to his [REDACTED] date of birth because he had minimum essential coverage under your spouse's health insurance policy.
- 8) You testified that you also contacted your local Department of Social Services (LDSS) to request retroactive Medicaid coverage.

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

## **Applicable Law and Regulations**

### De Novo Review

The Marketplace Appeals Unit must review each appeal de novo and "consider all relevant facts and evidence adduced during the appeals process" (45 CFR § 155.535(f)). "*De novo review* means a review of an appeal without deference to prior decisions in the case" (45 CFR § 155.500).

The Marketplace is required to provide "timely written notice to an applicant of any eligibility determination" made pursuant to 45 CFR Part 155, Subpart D, which sets out requirements for functions in the Individual Marketplace (45 CFR § 155.310(g)). An applicant or enrollee has the right to appeal an eligibility determination or redetermination or a failure by the Marketplace to provide timely notice of eligibility determination (45 CFR § 155.505(b)).

### Medicaid

To qualify for Medicaid a person must meet the nonfinancial criteria and have a monthly household income that is at or below the applicable Medicaid modified adjusted gross income standard (45 CFR § 155.305(c)).

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

Financial eligibility for Medicaid for applicants who are not currently receiving

Medicaid benefits is based on current monthly household income and family size (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved by the US Department of Health and Human Services, March 19, 2014).

For a Medicaid eligibility determination made on October 4, 2014, the allowable income limit for a four–person household is \$23,850.00, or \$1,988.00 per month (79 Fed. Reg. 3593 (2014)). The same is true for September 2014.

If an applicant for health insurance is determined Medicaid eligible, coverage will begin on the first day of the first month that the applicant was determined eligible (18 NYCRR § 360-2.4(c)). The applicant may be determined retroactively eligible for coverage for up to three months prior to their application, if they would have been eligible for Medicaid during the month when medical care or services were received (*id.*).

## Legal Analysis

The record does not contain a notice of eligibility determination denying retroactive Medicaid coverage to your infant son. However, you are as entitled to appeal Marketplace failure to timely issue a notice of eligibility determination as you are to appeal an adverse notice of eligibility determination. Also, the text of the Marketplace’s January 1, 2015 letter, which acknowledges the appeal on the issue of retroactive Medicaid coverage, permits an inference that the Marketplace did deny your request for Medicaid retroactive coverage. Since Appeal Unit review of Marketplace determinations is performed on a *de novo* basis, no deference would have been granted to the notice of eligibility determination on that issue had it been issued.

The only issue raised on appeal is whether your son is eligible for retroactive Medicaid coverage during September 2014.

An application for health insurance was first submitted to the Marketplace for your infant son on October 3, 2014. That same day, the Marketplace made a preliminary determination that he was eligible for Medicaid. Since Medicaid coverage takes effect on the first day of the month in which the person becomes eligible, the Marketplace correctly determined that your infant son’s Medicaid coverage began on October 1, 2014.

Your infant son became eligible for Medicaid on October 1, 2014. He can be eligible for retroactive coverage for the three months immediately preceding the month of his application, provided he meets the financial and nonfinancial standards for Medicaid. Since your son was born on [REDACTED], the only month at issue is September 2014.

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There has been no suggestion that your son did not meet the nonfinancial criteria for Medicaid during September 2014. Infants under the age of one are eligible for Medicaid with modified adjusted gross income (MAGI) household income up to 223% of the federal poverty level (FPL) for the applicable family size. During 2014, the FPL for a four-person household was \$1,988.00 for a single month. Your infant son was eligible for Medicaid at a household income up to \$4,433.00 (223% of \$1,988.00) per month. The credible of record indicates that your household income for the month of September 2014 was \$2,000.00. Therefore, your infant son met the criteria for Medicaid and is eligible for retroactive Medicaid during that month.

## **Decision**

The Marketplace's October 3, 2014 preliminary eligibility determination is MODIFIED to find that [REDACTED] is eligible for Medicaid retroactive to the month of his birth, September 2014.

**Effective Date of this Decision:** May 29, 2015

## **How this Decision Affects Your Eligibility**

This Decision does not affect [REDACTED] eligibility for Medicaid from October 1, 2014 to January 31, 2015.

It finds that [REDACTED] is eligible for retroactive Medicaid for the month of September 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

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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

### **Summary**

The Marketplace's October 3, 2014 preliminary eligibility determination is MODIFIED to find that [REDACTED] is eligible for Medicaid retroactive to the month of his birth, September 2014.

This Decision does not affect [REDACTED] eligibility for Medicaid from October 1, 2014 to January 31, 2015.

### **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]