



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

Notice of Decision

Decision Date: August 25, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001932

[REDACTED]

Dear [REDACTED],

On April 24, 2015, you and your Authorized Representative appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 29, 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).

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Decision Date: August 25, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001932



Issue

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

Did the Marketplace properly determine that your twin sons were eligible for Medicaid, effective July 1, 2014?

Procedural History

On June 30, 2014, the Marketplace received an application in which you attested to an expected yearly income of \$70,113.00. In response to this application, the Marketplace prepared a preliminary determination stating that each of your sons were eligible for Child Health Plus (CHP) at a reduced monthly premium rate of \$30.00 per child, effective August 1, 2014. It further stated that in order for their eligibility to be finalized, you must submit documentation to confirm the information you provided in your application was accurate. It did not specify the type of documents requested nor was a written determination issued in connection with this application or the preliminary eligibility determination.

That same date, your enrollment details reflected that your twin sons were enrolled in an Excellus BlueCross BlueShield (Excellus BCBS) CHP plan, effective August 1, 2014. No written notice was issued by the Marketplace confirming your sons' enrollment in the Excellus BCBS CHP plan.

On July 18, 2014, the Marketplace received a revised application for health insurance in which you again attested to an expected yearly income of \$70,113.00. In response to this application, the Marketplace prepared a preliminary determination stating that each of your sons were eligible for CHP at

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a reduced monthly premium rate of \$30.00 per child, effective September 1, 2014.

On July 19, 2014, the Marketplace issued an eligibility determination notice stating that your twin sons were presumptively eligible to enroll in a CHP plan through the Marketplace. It further stated that additional income documentation was required to be submitted to the Marketplace in order to confirm their eligibility. Such income documentation was required within 60 days.

On July 20, 2014, the Marketplace issued an enrollment notice confirming that your twin sons had been enrolled in the Excellus BCBS CHP plan at a total monthly premium responsibility of \$60.00. It further stated that your sons' coverage could begin as early as August 1, 2014 provided you paid your first month's premium.

On July 29, 2014, the Marketplace received a letter from your employer, [REDACTED], confirming that you remained employed and have begun your unpaid family medical leave on June 27, 2014, and that you were expected to return to normal work duties on August 15, 2014.

That same day, the Marketplace received a revised application, which was entered in the system by a Marketplace representative, in which the expected yearly income was reduced to \$23,313.00.

On July 30, 2014, the Marketplace issued an eligibility determination notice stating that your twin sons were eligible for Medicaid, effective July 1, 2014, since your annual household income of \$23,313.00 was at work below the allowable limit for Medicaid.

That same day, you provided the Marketplace with five earnings statements issued to you by your employer between May 16, 2014 and June 13, 2014.

Also on July 30, 2014, the Marketplace received a revised application in which you attested to an expected yearly income of \$60,032.00.

On July 31, 2014, the Marketplace issued an eligibility determination notice stating that your twin sons were eligible for coverage through CHP, effective September 1, 2014. It further stated that additional income documentation was required to be submitted to the Marketplace in order to confirm their eligibility. Such income documentation was required by October 1, 2014. It finally stated your twin sons were not eligible for Medicaid because their household income of \$60,032.00 was over the allowable income limit.

No disenrollment notice was issued by the Marketplace confirming your twin sons' disenrollment from Medicaid; however, your enrollment details in your

Marketplace account reflect that as of the July 30, 2014 application, their Medicaid fee-for-service coverage terminated effective August 31, 2014. On August 1, 2014, the Marketplace issued an eligibility redetermination notice stating that your twin sons were eligible for enrollment in CHP coverage, without qualification.

On March 4, 2015, you spoke with the Marketplace's Account Review Unit and appealed the July 30, 2014 eligibility determination insofar as your twin sons were found eligible for Medicaid during the month of August 2014.

On March 31, 2015, the Marketplace received an executed Authorized Representative Designation Form, stating that you wished that your spouse, [REDACTED], act as your Authorized Representative.

On April 24, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. Your Authorized Representative and spouse, [REDACTED], also attended the hearing. The record was developed during the 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 your May 9, 2014 application reflects, that your spouse was pregnant with your twin sons. In your application you provided a due date of June 13, 2014.
- 2) You testified, and your subsequent applications reflect, that your twin sons were born on June 27, 2014.
- 3) In your applications submitted on June 30, 2014 and July 18, 2014, you provided an expected yearly income of \$70,113.00. In these applications, you attested that you personally expected to receive \$46,800.00 from your employment with [REDACTED] while your spouse expected to receive \$20,288.00 from her employer, [REDACTED].
- 4) On July 19, 2014, the Marketplace issued an eligibility determination notice stating that your twin sons were presumptively eligible to enroll in a Child Health Plus (CHP) plan through the Marketplace. It further stated that additional income documentation was required to be submitted by September 19, 2014 to the Marketplace in order to confirm their eligibility.
- 5) Your twin sons were enrolled in an Excellus BCBS CHP plan effective August 1, 2014.

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- 6) You testified that you were requested by a Marketplace representative to provide not only earning statements reflecting four weeks of income, but also to provide a letter from your employer indicating that you were no longer receiving income due to your disability.
- 7) On July 29, 2014, you submitted to the Marketplace a letter from your employer, [REDACTED] confirming that while you remain employed, you began your unpaid family medical leave on June 27, 2014. It further stated that you expected to return to normal work duties on or about August 18, 2014.
- 8) On July 29, 2014, a revised application was submitted to the Marketplace, in which your expected yearly income was decreased to \$0.00, while your spouse's expected yearly income remained \$23,313.00.
- 9) You testified that while your expected yearly income decreased slightly as a result of taking a period of unpaid family leave to care for your newborn twin sons, it did not decrease to \$0.00 as the July 29, 2014 application suggests. You further testified that you took no action to submit the July 29, 2014 application.
- 10) On July 30, 2014, the Marketplace issued an eligibility determination notice stating that your twin sons were eligible for Medicaid beginning July 1, 2014.
- 11) On July 30, 2014, you provided the Marketplace with earnings statements issued by your employer, [REDACTED], reflecting that you received: (1) \$900.00 on May 16, 2014, (2) \$900.00 on May 23, 2014, (3) \$900.00 on May 30, 2014, (4) \$900.00 on June 6, 2014, and (5) \$900.00 on June 13, 2014.
- 12) On July 30, 2014, the Marketplace received a revised application in which you attested to an expected yearly income of \$60,032.00. In this application, you indicated that your expected earnings from [REDACTED] would be \$45,000.00 and that your spouse earned approximately \$12,007.00 between January 1, 2014 and May 31, 2014. You also indicated that your spouse would be receiving \$3,025.00 in additional income from other sources.
- 13) On July 30, 2014 and August 1, 2014, the Marketplace issued eligibility determination notices stating that your twin sons were again eligible for CHP coverage beginning September 1, 2014. In the latter notification, no additional documentation was required to confirm their eligibility.

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

Applicable Law and Regulations

Medicaid

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 (MAGI) 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 MAGI 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 \$23,850.00 for a four-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 July 29, 2014, your twin sons were eligible for Medicaid and not eligible for Child Health Plus (CHP).

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On July 19, 2014, the Marketplace issued an eligibility determination notice stating that your twin sons were presumptively eligible to enroll in a CHP plan through the Marketplace, effective August 1, 2014. You were requested to provide income documents no later than September 18, 2014 to confirm their eligibility.

In response to the July 19, 2014 eligibility determination notice request for additional documentation, you testified that provided the letter from your employer on July 29, 2014, [REDACTED] confirming that you remain employed and began your unpaid family medical leave on June 27, 2014. It further stated that you expected to return to normal work duties on August 18, 2014.

In the application that was submitted on July 29, 2014, apparently by a Marketplace representative in response to this letter, your twin sons' eligibility was determined on an annual household income of \$23,313.00, which included solely your spouse's income of \$23,313.00. Based on this figure, your twin sons were found eligible for Medicaid coverage beginning July 1, 2014.

You credibly testified that the expected annual income of \$23,313.00 does not reflect your household anticipated annual earnings during 2014. The letter issued by [REDACTED] on July 29, 2014 and the additional five paystubs you provided supports your contention that the period of not receiving income on your part was limited to the time between June 27, 2014 and August 18, 2014. You further testified that you resumed working at your normal rate after that date.

No documentation was ever submitted that would indicate your personal income for 2015 was reduced to zero.

Since the July 29, 2014 eligibility determination finding your twin sons eligible for Medicaid beginning July 1, 2014 was issued on an annual household income that was inconsistent with your attested income, and is not supported by the record, it is RESCINDED.

Accordingly, since the determination finding your twin sons eligible for Medicaid is no longer in effect, the subsequent eligibility determinations issued July 30, 2014 and August 1, 2014, finding your twin sons were again eligible for CHP, are MODIFIED to have their coverage begin no later than August 1, 2014.

Decision

The July 29, 2015 eligibility determination is RESCINDED.

The July 30, 2014 and August 1, 2014 eligibility determinations are MODIFIED solely to enroll [REDACTED] and [REDACTED] in their Excellus BCBS CHP plan at a monthly premium rate of \$30.00 per child no later than August 1, 2014, without any gap in coverage.

Effective Date of this Decision: August 25, 2015

How this Decision Affects Your Eligibility

Your twin sons were not eligible for Medicaid effective July 1, 2014.

Your twin sons are eligible to begin their coverage under their Excellus BCBS CHP plan effective August 1, 2014, without any gap in coverage.

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:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The July 29, 2014 eligibility determination is RECINDED.

The July 30, 2014 and August 1, 2014 eligibility determinations are MODIFIED solely to enroll [REDACTED] in their Excellus BCBS CHP plan at a monthly premium rate of \$30.00 per child no later than August 1, 2014.

Your twin sons were not eligible for Medicaid effective July 1, 2014.

Your twin sons are eligible to begin their coverage under their Excellus BCBS CHP plan effective August 1, 2014, without any gap in coverage.

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]