



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

Notice of Decision

Decision Date: August 21, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001993

[REDACTED]

Dear [REDACTED],

On April 20, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 31, 2014 and March 11, 2015 notices 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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NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001993

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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 children were eligible for Medicaid effective December 1, 2014?

Did the Marketplace properly determine that your children were no longer eligible for Medicaid, but would continue to receive Medicaid coverage until December 31, 2015?

Procedural History

On December 30, 2014, the Marketplace received your family's application for health insurance coverage for 2015.

On December 31, 2014, the Marketplace issued a notice of eligibility determination, which stated that your children were eligible for Medicaid effective December 1, 2014 because your household income of \$36,500.00 was at or below the allowable income limit of \$36,729.00.

On January 20, 2015, your account was updated to reflect annual expected earnings of \$36,500.00. On January 21, 2015, the Marketplace issued an eligibility determination stating that your children continued to be eligible for Medicaid effective January 1, 2015.

On March 10, 2015, the Marketplace received your modified application for health insurance and prepared a preliminary eligibility determination based on

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that application. It stated that your children were no longer eligible for Medicaid, but would continue to receive Medicaid coverage because certain individuals determined eligible for Medicaid remain eligible for benefits for twelve continuous months from the date that they were determined eligible. This determination was based on an attested household income of \$38,000.00.

Also on March 10, 2015, you spoke with the Marketplace's Account Review Unit and appealed that determination insofar as it found your children eligible for continuous Medicaid coverage rather than coverage through Child Health Plus.

On March 11, 2015, the Marketplace issued a notice of eligibility redetermination based on the March 10, 2015 application. It stated that your children were no longer eligible for Medicaid, but that they would continue to receive Medicaid coverage until December 31, 2015.

On April 20, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. 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 are married and have two children.
- 2) According to the December 30, 2014 and the March 10, 2015 applications, you expect to file your 2015 federal tax return jointly with your spouse, and claim your two children as dependents.
- 3) According to the December 30, 2014 application, you attested to an expected household income of \$36,500.00 for the 2015 tax year. You testified that, at the time you submitted the December 30, 2014 application, this income was an accurate reflection of your expected income for the 2015 tax year.
- 4) You testified that you began a new part-time job in February 2015, and your income has since changed.
- 5) According to the March 10, 2015 application, you attested to an expected household income of \$38,000.00.
- 6) At the time the December 30, 2014 and the March 10, 2015 applications were submitted, your eldest child was 5 years old and your youngest child was 2 years old.

- 7) You testified that you want your children enrolled in health coverage through Child Health Plus and not Medicaid.

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

Applicable Law and Regulations

Medicaid for Children between One Year of Age and Nineteen Years of Age

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), 42 CFR § 435.603(d)(4); N.Y. Soc. Serv. Law § 366(1)(b)).

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 FPL (42 CFR § 435.118(c); New York Department of Social Services Administrative Directive 13ADM-03).

In the case of an individual who expects to file a tax return and does not expect to be claimed by another taxpayer, the household consists of the taxpayer and all persons whom such individual expects to claim as a tax dependent (42 CFR § 435.603(f)(1)).

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 December 30, 2014 application, that was the 2014 FPL, which was \$23,850.00 for a four-person household (79 Fed. Reg. 3593).

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)).

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 first issue on appeal is whether the Marketplace correctly determined that your children were eligible for Medicaid effective December 1, 2014.

According to the record, you expect to file a joint federal income tax return for the 2015 tax year and claim your two children as dependents. Therefore, your children are in a four-person household.

On your December 30, 2014 application, you attested to an expected household income of \$36,500.00. You credibly testified that the income you provided of \$36,500.00 in the December 30, 2014 application was an accurate reflection at that time of your expected 2015 household income. The application also stated that your eldest child was 5 years old, and your youngest child was 2 years old. The Marketplace relied upon that information.

Medicaid can be provided through the Marketplace to children between the ages of one and nineteen who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 154% of the Federal Poverty Level (FPL) for the applicable family size. On the date of your application, the relevant FPL was \$23,850.00 for a four-person household. Since \$36,500.00 is 153.04% of the 2014 FPL, the Marketplace properly found your children to be eligible for Medicaid.

You testified that you want your children enrolled in health coverage through Child Health Plus (CHP) and not Medicaid. However, 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 31, 2014 notice of eligibility determination that your children were eligible for Medicaid is correct and is AFFIRMED.

The second issue is whether the Marketplace properly determined that your Medicaid coverage should continue until December 31, 2015.

You credibly testified that you began a new part-time job in February 2015. On March 10, 2015, you modified your application for health insurance to reflect a higher expected income of \$38,000.00 for 2015.

However, 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.

Since your children were correctly determined eligible for Medicaid effective December 1, 2014 and still determined to be eligible effective January 1, 2015, they continued to receive Medicaid coverage for the remainder of their 12 month eligibility period, which ends on December 31, 2015.

Therefore, the Marketplace's March 11, 2015 notice of eligibility determination that your children remained eligible for Medicaid coverage until December 31, 2015 is AFFIRMED.

Decision

The Marketplace's December 31, 2014 and March 11, 2015 notices of eligibility determination are AFFIRMED.

Effective Date of this Decision: August 21, 2015

How this Decision Affects Your Eligibility

Your children continue to be eligible for Medicaid coverage until December 31, 2015.

Your children are not eligible to enroll in Child Health Plus while they remain eligible for Medicaid.

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
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- By fax: 1-855-900-5557

Summary

The Marketplace's December 31, 2014 and March 11, 2015 notices of eligibility determination are **AFFIRMED**.

Your children continue to be eligible for Medicaid coverage until December 31, 2015.

Your children are not eligible to enroll in Child Health Plus while they remain 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:

