



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

Notice of Decision

Decision Date: June 30, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002197

[REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED]

Dear [REDACTED],

On April 24, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's March 25, 2015, March 26, 2015, and March 27, 2015 eligibility determinations.

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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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 March 1, 2015?

Did the Marketplace properly determine that your children remained eligible for Medicaid based on a policy of "continuous coverage," as stated in the March 26, 2015 and March 27, 2015 eligibility determination notices?

Procedural History

On September 26, 2014, the Marketplace received your household's initial application for health insurance, and several subsequent applications were submitted between then and October 4, 2014. Each listed household income as \$43,560.00.

On December 1, 2014, the Marketplace issued two eligibility determination notices that stated your two children were eligible for Child Health Plus with a \$9.00 per month premium. This eligibility was effective November 1, 2014.

On March 24, 2015, you modified your Marketplace application to state that your wife was pregnant with one child. The income information on your application remained at \$43,560.00.

On March 25, 2015 the Marketplace issued an eligibility redetermination notice that stated your two children were eligible for Medicaid effective March 1, 2015, because your expected annual household income of \$43,560.00 was below the program limit of \$43,752.00.

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Also on March 25, 2015, you modified the income information in your application to \$48,000.00.

On March 26, 2015, an eligibility determination notice was issued that stated your two children were no longer eligible for Medicaid; however, their coverage under Medicaid would continue because certain individuals who have been determined eligible for Medicaid remain eligible for benefits for twelve continuous months.

Also on March 26, 2015, you called the Marketplace's Account Review Unit and requested an appeal, because your children were no longer eligible for Child Health Plus.

On March 27, 2015, another eligibility determination notice was issued that stated your two children were no longer eligible for Medicaid; however, their coverage would continue because certain individuals who have been determined eligible for Medicaid remain eligible for benefits for twelve continuous months.

On April 24, 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 testified that you are currently married and have two children.
- 2) You testified that on March 24, 2015, you updated your Marketplace account to reflect that your spouse was currently pregnant with one child.
- 3) The record reflects that you initially applied for health insurance through the Marketplace on September 26, 2014. The household income that was listed on that application was \$43,560.00.
- 4) You testified that after you updated your application on March 24, 2015 to include your spouse's pregnancy, you looked at your 2014 income tax return and saw that your household income was closer to \$48,000.00. You realized that you forgot to update the income information on your Marketplace application.
- 5) You testified that on March 25, 2015, you called the Marketplace to update your household income to \$48,000.00.

- 6) You provided a paystub dated 3/13/2015 and a paystub dated 3/31/2015. Both paystubs are for a gross pay amount of \$1,969.17. You testified that this is the amount of gross pay you earn from your job every two weeks.
- 7) You testified that you are only appealing your children's eligibility determinations.
- 8) You testified that your children need coverage through Child Health Plus because they were both diagnosed with Autism, and Child Health Plus covers services and providers that are crucial to their development that Medicaid does not.

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

Applicable Law and Regulations

Medicaid for Children under 19 years of age

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 13ADM-03).

For purposes of Medicaid eligibility, the household size of either a pregnant woman or a person who is in the family of a pregnant woman includes not only the pregnant woman but also the number of children she expects to deliver (42 CFR § 435.603(b); State Plan Amendment (SPA) 13-0055-MM3, as approved by the US Department of Health and Human Services, March 19, 2014).

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 2015 FPL, which is \$28,410.00 for a five-person household (80 Fed. Reg. 3236, 3237).

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. Social Services Law § 366(4)(b)(3)).

To be eligible to enroll in Child Health Plus, a child must not be "eligible for medical assistance;" that is, must not be eligible for Medicaid (NY Public Health Law § 2511(2)(b)).

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Legal Analysis

The issues are whether the Marketplace correctly found your children eligible for Medicaid and whether they remained eligible for Medicaid after your household income was amended.

For the purposes of calculating family size for Medicaid eligibility, the household size of either a pregnant woman or a person who is in the family of a pregnant woman includes not only the pregnant woman but also the number of children she expects to deliver. When you updated your application on March 24, 2015 to include your spouse's pregnancy, your children's eligibility was therefore redetermined based on a five person household.

A child who is under the age of nineteen qualifies for Medicaid if the household income is no more than 154% of the federal poverty level. Since the federal poverty level for a five person household is \$28,410.00 (100% of the federal poverty level), each child is Medicaid eligible at a household modified adjusted gross income of up to \$43,752.00 (154% of the federal poverty level).

When you updated your health insurance application on March 24, 2015, your application listed a household income of \$43,560.00 (153.33% of the federal poverty level), so each child was determined eligible for Medicaid as stated in the March 25, 2015 eligibility determination notice.

During your hearing, you credibly testified that when you updated your application on March 24, 2015 to include your spouse's pregnancy, you forgot to update your income as well. You testified that after you looked at your income tax return you realized that your income was actually closer to \$48,000.00, which was higher than what was listed on your application. You called the Marketplace on March 25, 2015 to update your application with the correct information. However, since the children were deemed to be Medicaid eligible based on the information from the previous day, a determination was made that they remained eligible, under continuous coverage, despite the correction to your application.

Furthermore, you provided two paystubs from March 2015 that are for a gross pay amount of \$1,969.17, which is the amount you receive bi-weekly from your job. Therefore, your expected household income for 2015 was actually \$51,120.42 ($\$1,969.17 \times 26$ weeks) at the time of the March 24, 2015 application.

Since the record credibly shows that your March 24, 2015 application contained defective information, the March 25, 2015 eligibility determination that relies on it is likewise defective and is **RESCINDED**.

The March 26, 2015 and March 27, 2015 eligibility determinations stated that your children remained Medicaid eligible solely based on the validity of the March 25, 2015, eligibility determination.

Since the March 25, 2015 determination has been rescinded, the March 26, 2015 and the March 27, 2015 eligibility determinations lack a basis in the record and are also RESCINDED.

Your case is RETURNED to the Marketplace for a redetermination of your children's eligibility based on a household income of \$51,120.42.

Decision

The March 25, 2015, March 26, 2015, and March 27, 2015 eligibility determination notices are RESCINDED.

Your case is RETURNED to the Marketplace for a redetermination of your children's eligibility based on a household income of \$51,120.42 and a five-person household in ██████ County.

Effective Date of this Decision: June 30, 2015

How this Decision Affects Your Eligibility

The decisions that your children were, and remained, Medicaid eligible were based on inaccurate information in your application and are no longer in effect.

This decision does not make a final determination on your children's eligibility; your case is being sent back to the Marketplace for redetermination of your daughters' eligibility based on a five-person household with an expected 2015 household income of \$51,120.42.

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

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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 March 25, 2015, March 26, 2015 and March 27, 2015 eligibility determination notices are RESCINDED.

Your case is RETURNED to the Marketplace for a redetermination of your children's eligibility based on a household income of \$51,120.42 and a five-person household in ██████ County.

The decisions that your children were, and remained, Medicaid eligible were based on inaccurate information in your application and are no longer in effect.

This decision does not make a final determination on your children's eligibility, but it sends your case back to the Marketplace for redetermination of their eligibility based on a five person household with an expected 2015 household income of \$51,120.42.

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Legal Authority

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A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED] [REDACTED] [REDACTED]
[REDACTED]