



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

Notice of Decision

Decision Date: October 27, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002517

[REDACTED]

Dear [REDACTED],

On May 20, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 10, 2015 preliminary eligibility determination and April 18, 2015 and April 22, 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 Code of Federal Regulation (CFR) 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 twin sons were eligible for Medicaid, effective April 1, 2015?

Procedural History

The Marketplace received multiple applications for health insurance between November 12, 2014 and November 25, 2014. In response to each, the Marketplace prepared a preliminary eligibility determination stating that your twins were eligible for Child Health Plus (CHP) at a reduced monthly premium rate. The preliminary determinations also requested that you provide additional documentation in order to confirm their eligibility. It neither confirmed the specific type of documents requested nor the date by which such documents were required to be received.

On December 4, 2014, the Marketplace issued multiple eligibility determination notices stating, in relevant part, that your twins were each found conditionally eligible to enroll through CHP with various reduced monthly premium rates per month, effective January 1, 2015. Their eligibility was conditional pending the receipt of documentation confirming their citizenship status and Social Security number by February 24, 2015.

On December 16, 2014, the Marketplace confirmed your twins' enrollment in a CHP plan as of November 12, 2014. This notice further stated that your twins'

coverage could begin as early as December 1, 2014 provided you paid your first month's premium.

On April 10, 2015, the Marketplace received a revised application. In response to this application, the Marketplace prepared a preliminary eligibility determination finding each of your twins eligible for Medicaid effective April 1, 2015, based on household income of \$69,472.00. No written eligibility determination was issued with regard to this preliminary finding.

On April 18, 2015, the Marketplace issued an eligibility redetermination notice stating, in relevant part, that your twins were no longer eligible for Medicaid, but that their Medicaid coverage would continue until November 30, 2015. This eligibility determination was effective April 1, 2015.

On April 20, 2015, the Marketplace issued a disenrollment notice confirming that your twin sons' coverage under their CHP plan would end effective April 30, 2015.

On April 21, 2015, you spoke to the Marketplace's Account Review Unit and appealed the April 17, 2015 determination insofar as your child was determined eligible for Medicaid, and ineligible for CHP.

On April 22, 2015, the Marketplace issued a further eligibility redetermination notice stating, in relevant part, that your twins were no longer eligible for Medicaid, but that their Medicaid coverage would continue until November 30, 2015. This eligibility determination was also effective April 1, 2015.

On May 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 remained open as the Hearing Officer directed you to provide additional evidence to corroborate your testimony which included: (1) all earning statements issued to you during April 2015 and (2) all earning statements issued to your fiancé during April 2015. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

On that same day, you provided to the Appeals Unit via facsimile: (1) five earnings statements issued to your fiancé by his employer, [REDACTED] between April 10, 2015 and May 8, 2015 and (2) one earnings statement issued to you by your employer, [REDACTED], on May 8, 2015.

The record was closed on June 4, 2015.

Findings of Fact

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

- 1) You testified, and your applications reflect, that you expect to file your 2015 taxes with a tax filing status of single. You will claim your 5-year-old son and your newborn twins as dependents on that tax return. You further testified that your fiancé, [REDACTED], will file his 2015 taxes with a tax filing status of single and will not be claiming any dependents on that tax return.
- 2) Both of your twins were enrolled in a Child Health Plus plan with coverage beginning December 1, 2014.
- 3) The application that was submitted on April 10, 2015 listed an annual household income of \$69,472.00, which consisted of (1) \$1,000.00 per week your spouse expected to earn from his employment at [REDACTED] and (2) \$28.00 per hour at 12 hours per week you expect to receive from your employer, [REDACTED]. You testified that this amount was correct when you submitted that application.
- 4) As a result of your April 10, 2015 application, the Marketplace prepared a preliminary determination which found that your twin sons were eligible for Medicaid. No written notice of eligibility determination was issued in connection with the April 10, 2015 application or preliminary eligibility determination.
- 5) You revised your application on April 24, 2015 listing an annual household income of \$79,247.99, which reflected an increase of your spouse's anticipated income to \$1,300.00.00 per week and (2) \$28.00 per hour at a reduced 8 hours per week you expect to receive from your employer.
- 6) You testified that your spouse experienced an increase in his income from his employer on or about April 24, 2015, approximately the same time the April 24, 2015 revised application was submitted to the Marketplace. You further testified that you experienced a reduction of your income as the result of less hours.
- 7) Your twins were born on November 6, 2014.
- 8) At the time of April 10, 2015 and April 24, 2015 applications, your twins were approximately four months old.
- 9) Your application states that you and your fiancé do not anticipate taking any deductions on your respective 2015 tax returns.

- 10) Your application states that you live in Albany County.
- 11) You testified that you would like your twins to remain eligible for coverage through their Child Health Plus plan, and not Medicaid.
- 12) On May 20, 2015, you provided earnings statements reflecting that your fiancé received from his employer (1) \$1000.00 on April 10, 2015, (2) \$1,000.00 on April 17, 2015, (3) \$1,400.00 on April 24, 2015, (4) \$1,400.00 on May 1, 2015 and (5) \$1,400.00 on May 8, 2015.
- 13) On May 20, 2015, you provided an earnings statement reflecting that you received from your employer \$283.31 on May 8, 2015, which was based on a pay rate of \$26.98 per hour for 28 hours of work over a two week period. This earnings statement also reflected year-to-date earnings of \$4,626.27.

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

Applicable Law and Regulations

Medicaid for Children

A child who is under one year of age is eligible for Medicaid if he or she meets the non-financial criteria and has a household modified adjusted gross income that falls at or below 223% of the FPL for the applicable family size. (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)). However, children under the age of 19 who expect to be claimed by one parent as a tax dependent and are living with both parents but whose parents do not expect to file a joint tax return, that child's household consists of the child's (1) spouse, (2) natural, adopted, and step-children, and (3) natural, adopted, and step parents and natural, adoptive, and step siblings (42 CFR §435.603(f)(3)).

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 was \$28,410.00 for a five-person household (80 Fed. Reg. 3236, 3237).

Legal Analysis

The issue under review is whether the Marketplace properly determined that your twins were eligible for Medicaid effective April 1, 2015.

According to the record, you expect to file a tax return for the 2015 tax year, file as single, and claim your three children as dependents. The record also reflects that your fiancé, who is also your children's biological father, expects to file a tax return for the 2015 tax year, file as single and claim no dependents. Therefore, each of your twins is in a five-person household.

On your April 10, 2015 application, you attested to an expected household income of \$69,472.00, which consisted of (1) \$52,000.00 (\$1000.00 x 52 weeks) your spouse expected to receive from his employment at [REDACTED] and (2) \$17,472.00 (\$28.00 per hour x 12 hours per week x 52 weeks) you expect to receive from your employer, [REDACTED]. The application also stated that each of your children were four months years old. The Marketplace relied upon this information, and the documentation you provided to the hearing officer is reasonably consistent with this information provided to the Marketplace through this application.

Medicaid can be provided through the Marketplace to children under one year old who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 223% of the FPL for the applicable family size. Since \$69,472.00 is 244.53% of the 2015 FPL for a five-person household, the Marketplace erroneously determined that each of your twin sons was eligible for Medicaid as of April 10, 2015.

Since the record does not support your twin sons Medicaid eligibility as stated in the April 10, 2015 preliminary eligibility determination, it is hereby RESCINDED.

Furthermore, since the April 18, 2015 and April 22, 2015 eligibility determinations found that each of your twins were to remain enrolled in Medicaid until November 30, 2015 was issued based on the incorrect April 10, 2015 preliminary determination, they are also RESCINDED.

Accordingly, your twin sons' enrollment in their Child Health Plus plan, which was terminated effective April 30, 2015 as a result of the erroneous preliminary determination finding them eligible for Medicaid, is reinstated for each child.

Decision

The April 10, 2015 preliminary eligibility determination is RESCINDED.

The April 18, 2015 and April 22, 2015 eligibility determinations are RESCINDED.

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).

Effective Date of this Decision: October 27, 2015

How this Decision Affects Your Eligibility

Your twin sons' coverage through their Child Health Plus plan that was improperly terminated effective April 30, 2015 is reinstated, pending payment of the appropriate premiums.

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:
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- By fax: 1-855-900-5557

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Summary

The April 10, 2015 preliminary eligibility determination is RESCINDED.

The April 18, 2015 and April 22, 2015 eligibility determinations are RESCINDED.

Your twin sons' coverage through their Child Health Plus plan that was terminated effective April 30, 2015 is reinstated, pending the payment of the appropriate premiums.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(a).

A Copy of this Decision Has Been Provided To:

