



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

Notice of Decision

Decision Date: October 22, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002669

[REDACTED]

Dear [REDACTED],

On June 8, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 8, 2015 and May 1, 2015 eligibility determinations regarding your two-year-old son ([REDACTED]).

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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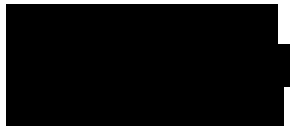


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Issue

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

Did the Marketplace properly determine that your two-year-old son was eligible for Medicaid Fee-For-Service as of January 1, 2015 and remained enrolled in Medicaid Fee-For-Service until February 26, 2016?

Procedural History

On February 1, 2015 and February 2, 2015, the Marketplace sent you notices that, in part, stated it had reviewed your January 31, 2015 application for health insurance for your two-year-old son through New York State of Health and more information was needed by February 18, 2015 to determine his eligibility.

On February 8, 2015, the Marketplace issued a notice of eligibility redetermination that, in relevant part, stated your two-year-old son was eligible for Medicaid as of January 1, 2015 and did not need to choose a health plan. Benefit information regarding Fee-For-Service (FFS) Medicaid was included in that notice.

Thereafter, between March 4, 2015 and April 24, 2015, the Marketplace issued several notices of eligibility redetermination and enrollment notices regarding your son's eligibility for and enrollment in Medicaid FFS based on your communications with Marketplace representatives.

On April 30, 2015, the Marketplace prepared a preliminary eligibility redetermination that, in relevant part, found your two-year-old son was no longer eligible for Medicaid

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but that his coverage will continue until February 29, 2016. This eligibility was effective April 1, 2015.

That same day, you appealed the eligibility redetermination insofar as your son was found eligible for and covered under Medicaid FFS and not enrolled in a Medicaid Managed Care (MMC) plan, like his sibling who had been.

On May 1, 2015, the Marketplace issued a notice of eligibility redetermination that was consistent with the April 30, 2015 eligibility redetermination.

On June 8, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and held open for up to fifteen days or upon receipt, whichever occurred earlier, to allow you to submit documents as proof of your and your spouse's income and a bill you received for nutritional supplements ordered for your son in March 2015.

On June 10, 2015, you uploaded documents to your Marketplace account consisting of: (1) A cover letter; (2) An earnings statement from your spouse's current employer, with a pay date of May 1, 2015; (3) A notarized letter, dated June 8, 2015, declaring you do not work and have no income; (4) A notice of suspension of payment of unemployment insurance from the NYS Department of Labor to your spouse, dated March 25, 2015; (5) A billing statement from [REDACTED] [REDACTED] for a Peditasure order dated March 8, 2015 for your two-year-old son; and (6) A copy of a doctor's note dated March 26, 2015, regarding your two-year-old son's nutritional supplement needs. These documents were made part of the record collectively as "Appellant's Exhibit D."

Since the requested documents were received on June 10, 2015, the record was closed that same day.

On June 17, 2015, the Marketplace issued a notice of eligibility redetermination that, in relevant part, stated your two-year-old son was no longer eligible for Medicaid but that his coverage will continue until February 29, 2016. This eligibility was effective June 1, 2015.

On June 18, 2015, the Marketplace issued an enrollment notice confirming that your two-year-old son did not need to pick a health plan.

Findings of Fact

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

- 1) There are seven family members in your household, five of whom had applied for health coverage through the Marketplace. The members of your household requesting insurance through the Marketplace are you, your spouse, and three of your five minor children, including your two-year-old son.

- 2) You are only seeking review of your two-year-old son's enrollment in Medicaid Fee-For-Service (FFS) because you want him to be re-enrolled in UnitedHealthcare of New York, Inc., a Medicaid Managed Care (MMC) plan.
- 3) According to an April 15, 2014 proof of termination letter from your former employer, [REDACTED], you worked part time during 2012 and your last pay check was on December 14, 2012, for the one day you worked the previous week. This document was uploaded to your Marketplace account on April 15, 2014 (Appellant's Exhibit C).
- 4) On or about February 4, 2015, a copy of your spouse's termination letter from his employer, [REDACTED], was uploaded to your Marketplace account, which stated that his employment was terminated as of Friday, January 30, 2015, and medical benefits for him and his dependent members, including your two-year-old son, ended January 31, 2015 (Appellant's Exhibit A).
- 5) On or about February 4, 2015, a copy of a February 4, 2015 letter from UnitedHealthcare regarding the termination of your family's health coverage was uploaded to your Marketplace account. It confirmed, in part, the effective coverage dates for your two-year-old son were May 1, 2014 to January 31, 2015 (Appellant's Exhibit B).
- 6) On June 10, 2015, you submitted a notarized updated letter, dated June 8, 2015, declaring that you have not worked since 2012, your termination letter from [REDACTED] was already submitted to the Marketplace, you have not been working since you were terminated due to your responsibilities at home caring for your infant and your two-year-old son, who has special needs, in addition to caring for your other children, and you are not receiving wages from any type of work (Appellant's Exhibit D, p. 3-4).
- 7) On June 10, 2015, you submitted an invoice statement from [REDACTED], that stated benefits were provided to your two-year-old son on March 10, 2015. The balance due is stated as \$222.48 (Appellant's Exhibit D, p. 6).
- 8) On June 10, 2015, you submitted a March 26, 2015 letter from your two-year-old son's doctor that he drinks Pediasure three times a day due to his medical condition and when travelling (Appellant's Exhibit D, p. 7).
- 9) On June 10, 2015, you submitted a notice of suspension issued by the NYS Department of Labor, dated March 25, 2015, which indicated your spouse's benefits stopped effective March 23, 2015 because he failed to report to a mandatory appointment with the [REDACTED] on March 23, 2015 (Appellant's Exhibit D, p. 5).

10) You testified that your spouse knew he was returning to work shortly thereafter so he did report to the [REDACTED] on March 23, 2015.

11) On June 10, 2015, you submitted one earning statement from your spouse's current employer, with a pay date of May 1, 2015, showing gross earnings for a two week prior period of \$1,200.00 (Appellant's Exhibit D, p.2).

12) You testified that you want your two-year-old son to be enrolled in an MMC plan, United Healthcare of New York, Inc., and would have enrolled him immediately upon receipt of the February 8, 2015 notice of eligibility determination had the choice been available.

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

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 (42 CFR § 435.118(c); New York Department of Social Services Administrative Directive 13ADM-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). On the date of your application, that was the 2015 FPL, which is \$36,730.00 for a seven-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)). 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)). This continuous coverage policy also extends to individuals, including children in this age group, who are enrolled in a Medicaid Managed Care (MMC) plan (see CMS Section 115 of the Social Security Act Medicaid Demonstration, NY Partnership Plan, Waiver Number 11-W-00114/2).

With regard to enrollment in an MMC plan, Medicaid recipients generally, except for those who are eligible for an exemption or an exclusion, must enroll in an MMC plan (18

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NYCRR § 360-10.4(a)). Mandatory enrollment in an MMC plan is required in Onondaga County.

For plan selections received within the first two weeks of the month, MMC plan enrollment is effectuated on the first of the following month. For plan selections/applications received after the first two weeks of the month, MMC plan enrollment is effectuated the first of the second following month (Medicaid Managed Care Model Contract (Appendix H), March 1, 2014).

To ensure continuity of coverage, applicants may be determined eligible for and have their coverage activated at any time during the month, with Medicaid Fee-For-Service (FFS) coverage provided until MMC plan enrollment is activated on the first day of the applicable month.

Legal Analysis

The only issue under review is whether the Marketplace properly determined your two-year old son was eligible for Medicaid Fee-For-Service (FFS) as of January 1, 2015 and was not enrolled in a Medicaid Managed Care (MMC) plan thereafter.

According to your application on January 31, 2015, you reported a household income of \$0.00, which the eligibility determinations relied upon. Based on a household income of \$0.00, the applicable FPL was 0.00%, which is why the Marketplace originally found your two-year-old son to be eligible for Medicaid FFS effective the first day of that month, January 1, 2015.

However, you provided proof that your family's health insurance coverage through your husband's employer, including that of your two-year-old son, terminated as of January 31, 2015 after your husband was laid off by his employer on January 30, 2015. Therefore, your family had third party health insurance until January 31, 2015 and the February 8, 2015 notice of eligibility determination finding your two-year-old son eligible for Medicaid effective January 1, 2015, was only for supplemental needs not covered by the third party health insurance plan provided the services were rendered by a Medicaid participating provider. Accordingly, the February 8, 2015 notice of eligibility determination is AFFIRMED as to this finding.

Providing a January 1, 2015 effective date for coverage with continuous coverage thereafter under Medicaid FFS for your two-year-old son ensured that he did not have a gap in coverage as of the January 31, 2015 effective end date of your family's employer sponsored insurance.

Medicaid recipients in Onondaga County are mandated to enroll in MMC plans. The credible evidence of record reflects that you would have chosen United Healthcare of New York, Inc., an MMC plan, for your two-year-old son had you been given the choice after the February 8, 2015 notice was issued and by or before the February 15, 2015

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deadline for the effective coverage date for your son's enrollment in an MMC plan to be March 1, 2015. Accordingly, the February 8, 2015 notice of eligibility determination is MODIFIED to state your son needs to pick an MMC plan and the February 9, 2015 enrollment notice is MODIFIED to confirm his enrollment in Medicaid FFS as of February 1, 2015 and enrollment in United Healthcare of New York, Inc. as of March 1, 2015.

Further, his enrollment in the MMC plan should remain in effect under the continuous coverage policy for twelve months until January 31, 2016.

For these reasons, the Marketplace's notices of eligibility redetermination issued from March 4, 2015 to May 1, 2015, insofar as these notices relate to your two-year-old son's eligibility for Medicaid and enrollment in Medicaid FFS are rescinded and his enrollment in the MMC plan with United Healthcare of New York, Inc. is to be made effective March 1, 2015.

Decision

The February 8, 2015 notice of eligibility determination is AFFIRMED to the extent that it stated your two-year-old son was eligible for Medicaid as of January 1, 2015.

The February 8, 2015 notice of eligibility determination is MODIFIED to state you need to pick a Medicaid Managed Care (MMC) plan for your two-year-old son and the February 9, 2015 enrollment notice is MODIFIED to confirm his enrollment in Medicaid Fee-For-Service (FFS) as of January 1, 2015 and enrollment in an MMC plan that you selected as of March 1, 2015.

The Marketplace's notices of eligibility redetermination issued from March 4, 2015 to May 1, 2015, insofar as these notices relate to your two-year-old son's eligibility for Medicaid and enrollment in Medicaid FFS are RESCINDED.

Effective Date of this Decision: October 22, 2015

How this Decision Affects Your Eligibility

Your two-year-old son's eligibility for an enrollment in Medicaid Fee-For-Service is effective January 1, 2015, to cover supplemental needs secondary to his third party health insurance coverage provided the services are rendered by a Medicaid participating provider.

Your two-year-old son is deemed enrolled in the Medicaid Managed Care (MMC) plan you select for him, effective March 1, 2015.

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He has continuous coverage in his MMC plan until January 31, 2016, unless he gains coverage through third party health insurance, such as employer-sponsored health insurance.

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

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Summary

The February 8, 2015 notice of eligibility determination is AFFIRMED to the extent that it stated your two-year-old son ([REDACTED]) was eligible for Medicaid as of January 1, 2015.

The February 8, 2015 notice of eligibility determination is MODIFIED to state you need to pick a Medicaid Managed Care (MMC) plan for your two-year-old son and the February 9, 2015 enrollment notice is MODIFIED to confirm his enrollment in Medicaid Fee-For-Service (FFS) as of January 1, 2015 and enrollment in an MMC plan that you selected as of March 1, 2015.

The Marketplace's notices of eligibility redetermination issued from March 4, 2015 to May 1, 2015, insofar as these notices relate to your two-year-old son's eligibility for Medicaid and enrollment in Medicaid FFS are RESCINDED.

Your two-year-old son's eligibility for an enrollment in Medicaid FFS is effective January 1, 2015, to cover supplemental needs secondary to his third party health insurance coverage provided the services are rendered by a Medicaid participating provider.

Your two-year-old son is deemed enrolled in an MMC plan you select for him, effective March 1, 2015.

He has continuous coverage in his MMC plan until January 31, 2016, unless he gains coverage through third party health insurance, such as employer-sponsored health insurance.

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:

