



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

## Notice of Decision

Decision Date: November 18, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002873

[REDACTED]

Dear [REDACTED],

On June 22, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 12, 2015 renewal notice and May 11, 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).

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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## Decision

Decision Date: November 18, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002873

[REDACTED]

## Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Was the February 12, 2015 eligibility determination subject to appeal as of May 11, 2015?

Did the Marketplace properly determine that your three children were no longer eligible for Medicaid, but would continue to receive Medicaid coverage until March 31, 2016?

## Procedural History

On February 12, 2015, the Marketplace issued a notice stated that it was time to renew your NY State of Health coverage. It stated that each of your three children qualified for health care coverage under Medicaid because federal and state data sources showed that your income was between \$0.00 and \$42,982.00. This eligibility determination was effective April 1, 2015.

On March 18, 2015, the Marketplace issued an enrollment notice confirming that your children's Medicaid coverage would begin April 1, 2015 and that you must choose a health plan soon or one would be chosen for them.

On April 11, 2015, the Marketplace issued an additional enrollment notice confirming your children's enrollment in a Medicaid managed care plan, through Emblem Health. The notice further stated that your children's Medicaid coverage would begin on April 1, 2015 and coverage under the Emblem Health plan would begin May 1, 2015.

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).

On May 11, 2015, the Marketplace received a revised application in which you attested that your household's expected yearly income was \$46,800.00. In response to your application, the Marketplace prepared a preliminary eligibility determination finding that each of your three children were eligible for Medicaid, effective May 1, 2015.

Also on May 11, 2015, you spoke to the Marketplace's Account Review Unit and appealed that determination insofar as your child remained eligible for Medicaid, and not eligible for Child Health PUs.

On May 12, 2015, the Marketplace issued an eligibility determination notice stating that your three children were no longer eligible for Medicaid; however, their Medicaid coverage would continue until March 31, 2016 because certain individuals determined eligible for Medicaid remain eligible for benefits for twelve continuous months from the date that they were determined eligible. This eligibility was effective as of May 1, 2015.

On June 22, 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 for the sole purpose of providing you an opportunity to submit as additional evidence your spouse's earning statements received during the month of February 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 July 7, 2015, you provided the above referenced documents to the Appeals Unit via facsimile.

Accordingly, the record was closed on July 7, 2015

## **Findings of Fact**

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

- 1) You expect to file your 2015 federal income tax return as married filing jointly, and claim your three children as dependents.
- 2) The Marketplace issued an eligibility determination on February 12, 2015 finding each of your three children eligible for Medicaid, effective April 1, 2015.
- 3) According to the May 11, 2015 application, you attested to an expected household income of approximately \$46,800.00. You testified that, at

the time you submitted your application, this income was an accurate reflection of your expected income for the 2015 tax year.

- 4) You testified that you wanted your children to have their insurance coverage through Child Health Plus rather than Medicaid.
- 5) The record reflects that you did not request an appeal until May 11, 2015.

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

## **Applicable Law and Regulations**

### Appeal Timeliness

The Marketplace “appeals entity must allow an applicant or enrollee to request an appeal within (1) 90 days of the date of the notice of eligibility determination; or (2) a timeframe consistent with the state Medicaid agency’s requirement for submitting fair hearing requests, provided that timeframe is no less than 30 days, measured from the date of the notice of eligibility determination” (45 CFR § 155.520(b)). In New York State, the Medicaid agency permits submission of fair hearing requests within 60 days of the date of the notice of eligibility determination (N.Y. Soc. Serv. Law § 22(4)(a)), and this timeframe has been adopted by the Marketplace.

### Medicaid for Adults between the Ages of 19 and 65

Medicaid through the Marketplace can be provided 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 under part A or B of title XVIII of the Act, (4) are not otherwise eligible for and enrolled for mandatory coverage under a State's Medicaid State plan in accordance with subpart B of this part, and (5) have a household modified adjusted gross income (MAGI) that is at or below 138% of the federal poverty level (FPL) for the applicable family size (42 CFR §§ 435.119(b), 435.911(b)(1), 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 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 May 11, 2015 application, that was the 2015 FPL, which is \$28,410.00 for a five-person household (80 Fed. Reg. 3236, 3237).

Most individuals determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage even if they lose Medicaid eligibility because of any changes or updates they make to their Marketplace account. For example, even if income increases above the Medicaid limit allowed for the household size, the insured will remain covered under Medicaid for a 12-month period. This 12-month period is referred to as “continuous coverage” and is set based on the start date of the original Medicaid eligibility determination or the date of a subsequent Medicaid eligibility determination based on modified adjusted gross income (N.Y. Soc. Serv. Law § 366(4)(c)).

## **Legal Analysis**

On May 11, 2015, you spoke with the Marketplace's Account Review Unit and appealed the February 12, 2015 and May 12, 2015 eligibility determinations.

Eligibility determinations may be appealed within 60 days of issue. Your initial eligibility determination was issued on February 12, 2015. Since the February 12, 2015 notice was issued more than 60 days before the May 11, 2015 appeal request, the appeal is untimely as to that determination and is dismissed. The February 12, 2015 eligibility determination continues in effect, and the Appeals Unit does not reach the question of your children's Medicaid eligibility as of that date.

On May 12, 2015, the Marketplace issued a notice of eligibility redetermination stating that your three children were no longer eligible for Medicaid, but that their Medicaid coverage would continue until March 31, 2016. The appeal is timely as to those determinations.

The second issue is whether the Marketplace properly determined on May 12, 2015 that your three children were no longer eligible for Medicaid, but would continue to receive Medicaid coverage until March 31, 2016.

Under New York State law, once a person is eligible for Medicaid, that eligibility generally continues for 12 months, even if the household income rises above 138% of the FPL. This provision is called “continuous coverage.”

The record reflects that on May 11, 2015 you changed the income amount in your application because your household experienced an increase in income. However, since your children were determined eligible for Medicaid based on the February 12, 2015 eligibility determination, which provided them Medicaid coverage beginning April 1, 2015, your children remain eligible for Medicaid for

12 continuous months regardless of any increases in your household income, until March 31, 2016.

## **Decision**

The May 11, 2015 appeal of the February 12, 2015 eligibility determination is untimely and is dismissed.

The May 12, 2015 eligibility determination is AFFIRMED.

**Effective Date of this Decision:** November 18, 2015

## **How this Decision Affects Your Eligibility**

Your children's eligibility has not changed.

Your children remain eligible for Medicaid coverage until March 31, 2016.

## **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 May 11, 2015 appeal of the February 12, 2015 eligibility determination is untimely and is dismissed.

The May 12, 2015 eligibility determination is AFFIRMED.

Your children's eligibility has not changed.

Your children remain eligible for Medicaid coverage until March 31, 2016.

## **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:**

