



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: AP000000002957

[REDACTED]

Dear [REDACTED],

On July 16, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 16, 2015, April 23, 2015, April 24, 2015, and May 15, 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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NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002957

[REDACTED]

Issues

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

Did the Marketplace properly determine, in the April 16, 2015 eligibility determination, that your youngest child was for Medicaid, effective April 1, 2015?

Did the Marketplace properly determine, in the April 23, 2015, April 24, 2015, and May 15, 2015 eligibility determinations that your youngest child was no longer eligible for Medicaid, but would continue to receive Medicaid coverage until March 31, 2016?

Procedural History

On April 15, 2015, the Marketplace received your completed application for health insurance, which indicated your youngest child's date of birth as [REDACTED].

On April 16, 2015, the Marketplace issued an eligibility determination notice stating, in pertinent part, that your youngest child was eligible for Medicaid, effective April 1, 2015. This determination was based on an attested household income of \$74,806.00.

On April 22, 2015, your account was modified to reflect your youngest child's date of birth as [REDACTED].

On April 23, 2015, April 24, 2015, and May 15, 2015, the Marketplace issued notices of eligibility determination stating that your child was no longer eligible for Medicaid. However, his 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 final eligibility was effective as of May 1, 2015.

Also on May 15, 2015, you spoke to the Marketplace's Account Review Unit and appealed that determination insofar as it determined your child continuously eligible for Medicaid, and not eligible for Child Health Plus.

On July 16, 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 support the following findings of fact:

- 1) You expect to file your 2015 federal income tax return as married filing jointly and claim your 5 children as dependents.
- 2) According to the April 15, 2015 application, you attested to an expected household income of \$74,806.00. You testified that this amount was correct.
- 3) According to the April 15, 2015 application, your youngest child's date of birth was listed as [REDACTED]. You testified that this date of birth is incorrect.
- 4) According to the April 22, 2015 application, your youngest child's date of birth was changed to [REDACTED]. You testified that this is your child's correct date of birth. Your income was not modified in this application.
- 5) At the time of April 15, 2015 application, your child was 1 year old, but because of the incorrect date on the application, his age was listed as 0.
- 6) Your applications state that you will not be taking any deductions on your 2015 tax return.
- 7) Your applications state that you live in Queens County.
- 8) You are appealing the eligibility determination for your youngest child.

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).

A child who is at least one year of age but younger than nineteen 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 154% 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)).

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 \$36,730.00 for a seven-person household (80 Fed. Reg. 3236, 3237).

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 who meets the eligibility requirements for Child Health Plus (CHP) may be eligible to receive a subsidy payment if the child resides in a household with a household income at or below 400% of the federal poverty level (FPL) (New York Public Health Law (PHL) § 2511(2)(a)(iii)). To be eligible to enroll in CHP with subsidy payments, 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 issues under review are whether the Marketplace correctly found your child eligible for Medicaid and whether he was properly found to have remained eligible for Medicaid after his date of birth was amended.

According to the record, you expect to file your 2015 tax return as married filing jointly and claim your five children as dependents. Therefore, your child is in a seven-person household.

Medicaid can be provided through the Marketplace to children under one year of age who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 223% of the federal poverty level (FPL) for the applicable family size. At the time of your application, an infant in a seven-person household would be eligible for Medicaid if the household income was below \$81,908.00.

On April 15, 2015, the Marketplace received your application, listing a household income of \$74,806.00 (203.66% of the FPL). However, the application also listed your youngest child's date of birth as [REDACTED], that is, under one year old. You testified, and the record reflects, that this date of birth was entered in error, and your child's correct date of birth is [REDACTED]. This error in date of birth resulted in a determination that your child was eligible for Medicaid based on the income threshold for an infant.

On April 22, 2015, you updated your application and amended your child's date of birth to [REDACTED], correctly noting his age as one.

A child who is between one year old and nineteen qualifies for Medicaid if the household income is no more than 154% of the FPL. Therefore, a child in a seven-person household would be eligible for Medicaid if the household income was below \$56,564.00.

When you corrected the information in your application on April 22, 2015, the Marketplace issued eligibility redetermination notices on April 23, 2015, April 24, 2015, and May 15, 2015, stating that your child was no longer eligible for Medicaid but would continue to receive Medicaid coverage until March 31, 2016 because certain individuals who are determined eligible for Medicaid remain eligible for benefits for twelve continuous months.

Generally, once a child is found eligible for Medicaid, they remain eligible for Medicaid for 12 continuous months. This is referred to as "continuous coverage."

However, since the record credibly shows that your April 15, 2015 application contained defective information, the April 16, 2015 eligibility determination that relied on it is likewise defective and is MODIFIED to reflect that the finding regarding your youngest child's eligibility for Medicaid is 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).

The April 23, 2015, April 24, 2015, and May 15, 2015 eligibility determinations stated that your child remained Medicaid eligible solely based on the validity of the April 16, 2015, eligibility determination. They too are likewise MODIFIED to reflect that the finding regarding your youngest child's eligibility for Medicaid is rescinded.

Your case is RETURNED to the Marketplace for a redetermination of your youngest child's eligibility as of April 15, 2015, with a date of birth of [REDACTED], a county of residence of Queens County, a household size of seven, and an expected household income of \$74,806.00.

Decision

The April 16, 2015 eligibility determination is MODIFIED to reflect that the finding regarding your youngest child's eligibility for Medicaid is rescinded.

The April 23, 2015, April 24, 2015, and May 15, 2015 eligibility determinations are likewise MODIFIED to reflect that the finding regarding your youngest child's eligibility for Medicaid is rescinded.

Your case is RETURNED to the Marketplace for a redetermination of your youngest child's eligibility as of April 15, 2015, with a date of birth of [REDACTED], a county of residence of Queens County, a household size of seven, and an expected household income of \$74,806.00.

Effective Date of this Decision: November 18, 2015

How this Decision Affects Your Eligibility

The decisions that your youngest child was, 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 child's eligibility; your case is being sent back to the Marketplace for a redetermination of your youngest child's eligibility as of April 15, 2015, with a date of birth of [REDACTED], a county of residence of Queens County, a household size of seven, and an expected household income of \$74,806.00.

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 [REDACTED] eligibility determination is MODIFIED to reflect that the finding regarding your youngest child's eligibility for Medicaid is rescinded.

The April 23, 2015, April 24, 2015, and May 15, 2015 eligibility determinations are likewise MODIFIED to reflect that the finding regarding your youngest child's eligibility for Medicaid is rescinded.

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Your case is RETURNED to the Marketplace for a redetermination of your youngest child's eligibility as of [REDACTED], with a date of birth of [REDACTED], a county of residence of Queens County, a household size of seven, and an expected household income of \$74,806.00.

The decisions that your youngest child was, 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 child's eligibility; your case is being sent back to the Marketplace for a redetermination of your youngest child's eligibility as of [REDACTED], with a date of birth of [REDACTED], a county of residence of Queens County, a household size of seven, and an expected household income of \$74,806.00.

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:

