



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: AP000000003990

[REDACTED]

Dear [REDACTED],

On September 8, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 9, 2015 eligibility determination.

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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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 July 1, 2015?

Did the Marketplace properly determine that your children remained eligible for Medicaid based on a policy of "continuous coverage," as of July 8, 2015?

Procedural History

On July 8, 2015, the Marketplace received two application for health insurance from your Marketplace account.

The first application submitted on July 8, 2015 listed an annual household income of \$36,579.89. That application resulted in a preliminary eligibility determination stating that your children were eligible for Medicaid effective July 1, 2015.

The second application submitted on July 8, 2015 listed an annual household income of \$67,439.89. That application resulted in a preliminary eligibility determination stating that your children would remain enrolled in Medicaid.

Also on July 8, 2015, you called the Marketplace's Account Review Unit and requested an appeal, because your children were not eligible for Child Health Plus.

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On July 9, 2015, an eligibility determination notice was issued, based on the last application submitted on July 8, 2015, 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 September 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 left open for 15 days to allow you the opportunity to submit proof of your household income.

On September 15, 2015 the Appeals Unit received via fax copies of your and your husband's paystubs for the month of July 2015, these documents were collectively marked as Appellant's Exhibit #1 and incorporated into the record. The record is now closed.

Findings of Fact

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

- 1) Your application states that your two children reside with you and your spouse.
- 2) Your application states that your two children are [REDACTED]
- 3) The record reflects that the first application you submitted for health insurance through the Marketplace on July 8, 2015 listed a household income of \$36,579.89 consisting of \$4,579.89 in income that you expect to earn from a job and \$32,000.00 your spouse expects to earn from a job.
- 4) The record reflects that the second application you submitted for health insurance through the Marketplace on July 8, 2015 listed a household income of \$67,439.89 consisting of \$5,439.89 in income that you expect to earn from a job and \$62,000.00 your spouse expects to earn from a job.
- 5) You testified that, on July 8, 2015, you renewed your application over the phone and that a representative from the Marketplace entered your information in your application.
- 6) You testified that after you were told by the representative that your children were eligible for Medicaid you believed that the representative

made an error and only entered in the income you and your husband expect to make for the remainder of the year.

- 7) You testified that you called the Marketplace back on July 8, 2015 and spoke to a different representative who entered in the correct amount of household income. You were told that your children should not have been eligible for Medicaid but because of continuous coverage they would have it for the entire year.
- 8) You testified that the income information listed on your second application is correct.
- 9) You faxed to the Appeals Unit copies of your husband's paystubs for the month of July 2015. You provided paystubs dated 7/2/2015, 7/10/2015, 7/17/2015, 7/24/2015, and 7/31/2015. Each paystub was for a gross pay amount of \$1,730.80.
- 10) You faxed to the Appeals Unit copies of your paystubs for the month of July 2015. The quality of the fax was too poor to gather relevant information from those paystubs.

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 a child includes the following persons, if living with the child: (1) the child's parents, (2) the child's spouse, (3) the child's children and siblings under the age of 19, or 21 if a full-time student (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 is \$24,250.00 for a four-person household (80 Fed. Reg. 3236, 3237).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size

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(42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved March 19, 2014).

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)).

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 changed.

For the purposes of calculating family size for Medicaid eligibility, the household size of a child consists of parents and any siblings residing with that child. Your application indicates that your two children reside with you and your spouse. Therefore, your children are in a household of four people.

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 four person household is \$24,250.00 (100% of the federal poverty level), each child is Medicaid eligible at a household modified adjusted gross income of up to \$37,345.00 (154% of the federal poverty level).

When your health insurance application was first updated on July 8, 2015, your application listed a household income of \$36,579.89 (150.84% of the federal poverty level), so each child was determined eligible for Medicaid as stated in the July 8, 2015 preliminary eligibility determination. However, you testified that this application was submitted by a Marketplace representative because you were updating your application over the phone. You testified that you believe the representative made an error and only entered in the income you and your husband expect to make for the remainder of the year.

You testified that you called the Marketplace back on July 8, 2015 and spoke to a different representative who entered in the correct amount of household income. The record reflects that, on July 8, 2015, shortly after the first application was submitted, a second application was submitted that listed a household income of \$67,439.89. You testified that the income information listed on your second application is correct. However, since the children were deemed to be Medicaid

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eligible based on the information from the previous application, a determination was made that they remained eligible, under continuous coverage, despite the correction to your application.

Furthermore, you faxed to the Appeals Unit copies of your husband's paystubs for the month of July 2015. You provided paystubs dated 7/2/2015, 7/10/2015, 7/17/2015, 7/24/2015, and 7/31/2015. Each paystub was for a gross pay amount of \$1,730.80. You also faxed to the Appeals Unit copies of your paystubs for the month of July 2015. However, the quality of the fax was too poor to gather relevant information from those paystubs.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. To be eligible for Medicaid in July, your children would need to meet the non-financial criteria and have an income no greater than 154% of the FPL, which is \$3,113.00 per month for a household of four people. The documentation you provided shows that based on your husband's income alone, your household's income for the month of July was at least \$8,654.00.

Since the record credibly shows that your July 8, 2015 application contained defective information, the July 8, 2015 preliminary eligibility determination that relies on it is likewise defective and is RESCINDED.

The July 9, 2015 eligibility determinations stated that your children remained Medicaid eligible solely based on the validity of the July 8, 2015 preliminary eligibility determination.

Since the July 8, 2015 preliminary eligibility determination has been rescinded, the July 9, 2015 eligibility determination lack a basis in the record and is also RESCINDED.

Your case is RETURNED to the Marketplace for a redetermination of your children's eligibility based on a household income of \$67,439.89 and a household size of four people.

Decision

The July 8, 2015 preliminary eligibility determination and the July 9, 2015 eligibility determination notice are RESCINDED.

Your case is RETURNED to the Marketplace for a redetermination of your children's eligibility based on a household income of \$67,439.89 and a four-person household.

Effective Date of this Decision: October 27, 2015

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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 household income of \$67,439.89 and a four-person household.

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 July 8, 2015 preliminary eligibility determination and the July 9, 2015 eligibility determination notice are **RESCINDED**.

Your case is **RETURNED** to the Marketplace for a redetermination of your children's eligibility based on a household income of \$67,439.89 and a four-person household.

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 household income of \$67,439.89 and a four-person household.

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:

