



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

## Notice of Decision

Decision Date: May 09, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004465

[REDACTED]

Dear [REDACTED],

On December 2, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 18, 2015 eligibility determination notice.

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 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).

This page intentionally left blank.



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

## Decision

Decision Date: May 09, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000004465



## Issue

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

Did the Marketplace properly determine that your child is not eligible for Medicaid for May 1, 2015 through May 31, 2015?

## Procedural History

On June 24, 2015, an eligibility determination notice was issued stating that you, your spouse, and your son were eligible for Medicaid. This eligibility was effective as of June 1, 2015.

On August 18, 2015 the Marketplace issued an eligibility determination notice stating that your son is not eligible for Medicaid for May 1, 2015 through May 31, 2015 because the monthly household income of \$3,130.99 is over the allowable monthly income limit of \$2,579.00.

On August 25, 2015, you spoke to the Marketplace's Account Review Unit and appealed that eligibility determination notice insofar as it denied retroactive Medicaid for the month of May 2015.

On December 2, 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 time to submit proof of your income for May 2015, specifically the Hearing Officer directed you to submit a copy of your May 8, 2015 paystub. On December 6, 2015 you uploaded copies of your

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).

paystubs to your Marketplace account however, the May 8, 2015 paystub was not among them. The record remained open until the end of the 15 day time frame and no other documents were submitted. The record is now closed.

## **Findings of Fact**

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

- 1) As of the date of the hearing, you testified that you expect to file your 2015 federal income tax return as married filing jointly, and claim your one child as a dependent.
- 2) You testified that your mother-in-law lives with you and that you may claim her as a dependent on your 2015 tax return if she can get a social security number by the time you file your return.
- 3) You uploaded a letter from your landlord stating that you, your spouse, your son, and your mother-in-law all reside at the same address.
- 4) You testified that you are seeking retroactive coverage through fee-for service Medicaid for the month of May 2015.
- 5) You testified that your spouse is paid weekly. You uploaded a paystub dated May 8, 2015 for a gross pay amount of \$402.49, a paystub dated May 15, 2015 for a gross pay amount of \$448.55, a paystub dated May 22, 2015 for a gross pay amount of \$361.27, and a paystub dated May 29, 2015 for a gross pay amount of \$518.68.
- 6) You testified that you are paid bi-weekly. You uploaded a paystub dated May 22, 2015 for a gross pay amount of \$700.00.
- 7) You testified that the amount you are paid per paycheck varies.
- 8) The Hearing Officer directed you to submit proof of your income from the month of May. Specifically, you were asked to provide a paystub dated May 8, 2015.
- 9) The record reflects that on December 6, 2015 you uploaded paystubs dated May 22, 2015, June 5, 2015, and June 19, 2015.
- 10) The record reflects that no other paystubs for the month of May 2015 were received by the Appeals Unit.

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 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 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 \$20,090.00 for a three-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 (42 CFR § 435.603(h)(1); State Plan Amendment (SPA) 13-0055-MM3, as approved March 19, 2014).

"Family size" means the number of persons counted as members of an individual's household. The household of a taxpayer who expects to file a return, and does not expect to be claimed as a tax dependent by anyone else, consists of the taxpayer plus all people the taxpayer expects to claim as tax dependents (42 CFR § 435.603(f)(1), (26 USC § 36B(d)(1)).

The Department of Health must make Medicaid coverage start retroactively for up to three months prior to the month of application if the individual received medical services that would have been covered under Medicaid and the individual would have been eligible for Medicaid at the time he received the services if he had applied. (42 CFR 435.915(a)). The Department of Health may make eligibility effective for fee-for-service Medicaid on the first day of the month if an individual was eligible any time during that month (42 CFR 435.915(b)).

## **Legal Analysis**

The issue under review is whether the Marketplace properly determined that your child is not eligible for Medicaid for May 1, 2015 through May 31, 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).

As of the date of the hearing, you testified that you expect to file your 2015 federal income tax return as married filing jointly, and claim your one child as a dependent. Therefore, your son is in a three person household.

You uploaded a letter from your landlord stating that you, your spouse, your son, and your mother-in-law all reside at the same address. You testified that your mother-in-law lives with you and that you may claim her as a dependent on your 2015 tax return if she can get a social security number by the time you file your return. However, until such a time as you can attest to being able to claim you mother as a dependent on your tax return, she cannot be included in your family's household size.

You, your spouse and your child were initially found eligible for Medicaid in the June 4, 2015 eligibility determination notice. According to this notice, your family's coverage with Medicaid was effective June 1, 2015.

You testified that you are seeking to have your child's Medicaid coverage retroactively applied for the month of May 2015.

Medicaid coverage can be made effective retroactively for up to three months prior to an individual's application if the individual received medical services that would have been covered under Medicaid and if they would have been eligible for Medicaid in those three months had they applied.

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 May 2015, your child would have needed to meet the non-financial criteria and have an income no greater than 154% of the FPL, which is \$2,579.00 per month. There is no indication in the record that he would have been ineligible for Medicaid based on non-financial criteria during May 2015.

You testified that your spouse is paid weekly. You uploaded a paystub dated May 8, 2015 for a gross pay amount of \$402.49, a paystub dated May 15, 2015 for a gross pay amount of \$448.55, a paystub dated May 22, 2015 for a gross pay amount of \$361.27, and a paystub dated May 29, 2015 for a gross pay amount of \$518.68.

You testified that you are paid bi-weekly and the amount you are paid varies per paycheck. You uploaded a paystub dated May 22, 2015 for a gross pay amount of \$700.00.

The Hearing Officer directed you to submit proof of your income from the month of May. Specifically, you were asked to provide a paystub dated May 8, 2015. The record reflects that on December 6, 2015 you uploaded paystubs dated May 22, 2015, June 5, 2015, and June 19, 2015. No other paystubs for the month of May 2015 were received by the Appeals Unit.

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).

Further review of the record indicates that in addition to you May 8, 2015 paystub your spouse is also missing a May 1, 2015 paystub. Therefore, the Appeals Unit is not able to evaluate your child's eligibility for retroactive Medicaid for the month of May 2015 because the record is incomplete.

Therefore, the August 18, 2015 eligibility determination notice stating that your son is not eligible for Medicaid for May 1, 2015 through May 31, 2015 is AFFIRMED but it is MODIFIED to state that he is not eligible because you did not submit enough proof to determine what your household's income was for the month of May 2015.

## **Decision**

The August 18, 2015 eligibility determination notice stating that your son is not eligible for Medicaid for May 1, 2015 through May 31, 2015 is AFFIRMED but it is MODIFIED to state that he is not eligible because you did not submit enough proof to determine what your household's income was for the month of May 2015.

**Effective Date of this Decision:** May 09, 2016

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

Your son is not eligible for Medicaid in the month of May 2015.

## **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 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).

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 August 18, 2015 eligibility determination notice stating that your son is not eligible for Medicaid for May 1, 2015 through May 31, 2015 is AFFIRMED but it is MODIFIED to state that he is not eligible because you did not submit enough proof to determine what your household's income was for the month of May 2015.

Your son is not eligible for Medicaid in the month of May 2015.

## **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:**

