



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

Notice of Decision

Decision Date: February 4, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004687

[REDACTED]

Dear [REDACTED],

On December 11, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 5, 2015 eligibility determination, and August 6, 2015 and September 15, 2015 disenrollment notices.

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 and NY State of Health number at the top of this notice.

Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (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]
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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 you were no longer eligible for Medicaid, effective August 31, 2015?

Did the Marketplace properly determine that your son was no longer eligible for coverage under his Medicaid Managed Care plan, effective September 30, 2015?

Procedural History

The Marketplace received an application on January 21, 2015 in which you attested to an annual household income of \$50,000.00 and being pregnant with one child.

On January 24, 2015, an eligibility determination notice was issued stating that you remained eligible for Medicaid, effective February 1, 2015, because your household income of \$50,000.00 was at or below the allowable income limit for that program.

On January 25, 2015, the Marketplace issued an enrollment notice confirming that your insurance coverage through Medicaid would begin February 1, 2015. This notice also advised you to select a health plan soon or one would be chosen for you.

On January 28, 2015, the Marketplace issued an additional enrollment notice confirming your selection of CDPHP as your Medicaid Managed Care (MMC). The notice stated that your insurance coverage through Medicaid would begin February 1, 2015 and enrollment with CDPHP would begin March 1, 2015.

On June 19, 2015, the Marketplace received a revised application in which you added your newborn son to your account.

On July 30, 2015, the Marketplace received a further revised application in which you attested to an annual household income of \$50,000.00. You also updated your name from [REDACTED] to [REDACTED]. In response to this application, the Marketplace prepared a preliminary eligibility determination finding your newborn son temporarily eligible for Medicaid, effective July 1, 2015.

On July 31, 2015, the Marketplace issued an eligibility redetermination notice stating that you were no longer eligible for Medicaid; however, your coverage would continue until January 31, 2016. The notice also stated that your newborn son was conditionally eligible for Medicaid, effective July 1, 2015. In order to confirm his eligibility, the Marketplace directed you to submit documentation to prove his citizenship status and Social Security number before October 28, 2015, or he might lose his insurance coverage or his financial assistance.

On July 31, 2015, the Marketplace issued an enrollment notice confirming that you and your newborn son's MMC coverage with CDPHP would begin effective March 1, 2015 and July 1, 2015, respectively.

On August 5, 2015, the Marketplace issued an eligibility redetermination notice stating that you were newly eligible to receive advance payments of the premium tax credit (APTC); newly eligible to receive cost-sharing reductions (CSR); and ineligible for Medicaid. Your eligibility was effective September 1, 2015. The notice also stated that your newborn son remained eligible for Medicaid, without condition, effective August 1, 2015.

On August 6, 2015, the Marketplace issued a disenrollment notice confirming that your coverage with CDPHP would end effective August 31, 2015.

On September 14, 2015, the Marketplace received a revised application in which you again attested to an annual household income of \$50,000.00. In response to your application, the Marketplace prepared a preliminary eligibility determination which found that you were eligible for an APTC and CSR, effective October 1, 2015. The preliminary eligibility determination also found that your newborn son was eligible for Medicaid, effective September 1, 2015.

Also on September 14, 2015, you spoke to the Marketplace's Account Review Unit and appealed the August 5, 2015 eligibility determination and August 6,

2015 disenrollment notice insofar as you were disenrolled from the Medicaid coverage effective August 31, 2015.

On September 15, 2015, the Marketplace issued a separate disenrollment notice confirming that your newborn son's coverage with CDPHP would end effective September 30, 2015. Your son's Marketplace account details reflect that he remained enrolled in Medicaid fee-for-service coverage beginning October 1, 2015. During the hearing, you stated that you were also challenging the disenrollment of your son from his MMC plan, effective September 30, 2015.

On December 11, 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 supports the following findings of fact:

- 1) In your January 23, 2015 application, you attested to an annual household income of \$50,000.00 and being pregnant with one child.
- 2) Based on the information contained in the January 23, 2015 application, on January 24, 2015, the Marketplace issued an eligibility determination finding you fully eligible for Medicaid, effective February 1, 2015.
- 3) Your son was born on [REDACTED].
- 4) On June 19, 2015, you revised your applications to add your newborn son to your account.
- 5) Your newborn son was found conditionally eligible for Medicaid effective July 1, 2015 pending receipt of income documentation; however, as reflected in the August 5, 2015 eligibility determination, he was found fully eligible for Medicaid, effective August 1, 2015.
- 6) You and your son's coverage with CDPHP as the Medicaid Managed Care plan began March 1, 2015 and July 1, 2015, respectively.
- 7) Also in the August 5, 2015 eligibility determination, you were found eligible for APTC and CSR, but ineligible for Medicaid.
- 8) Your Medicaid coverage was terminated effective August 31, 2015.

- 9) Your newborn son's enrollment with CDPHP was terminated effective September 30, 2015, but he continued his coverage with Medicaid fee-for-service beginning October 1, 2015.
- 10) You testified that you were seeking Medicaid coverage with CDPHP to continue for both you and your newborn son.

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

Applicable Law and Regulations

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)).

Medicaid is available to children under one year of age who have a modified adjusted gross income at or below 223% of the federal poverty Level (FPL) for the applicable family size (see 42 CFR § 435.118(c); NY Department of Health Administrative Directive 13ADM-03).

Most adults 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)).

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)).

Legal Analysis

The first issue under review is whether you were properly disenrolled from Medicaid, effective August 31, 2015.

On January 24, 2015, the Marketplace issued an eligibility determination notice stating that you were eligible for Medicaid as of February 1, 2015. That determination has not been appealed and is not under review here.

On January 28, 2015, the record reflects that you selected CDPHP as your Medicaid Managed Care (MMC) plan on or about January 27, 2015. Your coverage under the CDPHP plan began March 1, 2015.

You revised your application several times between June 19, 2015 and August 4, 2015, in each case reflecting that an unchanged annual household income of \$50,000.00, and that your newborn son was now seeking insurance.

On August 5, 2015, the Marketplace issued an eligibility redetermination notice stating that you were newly eligible to receive an advance premium tax credit (APTC); newly eligible to receive cost-sharing reductions (CSR); and ineligible for Medicaid. You eligibility was effective September 1, 2015.

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 while you had added your newborn son to your account, there were no fluctuations in income or other life changing event that would have been a basis for your Medicaid coverage to have been terminated. Since you were determined eligible for Medicaid based on the application you submitted on January 23, 2015, you remain eligible for Medicaid for 12 continuous months, regardless of any increases in your household income. As a result, you were improperly disenrolled from Medicaid plan effective August 31, 2015.

Since the Marketplace determined you eligible for Medicaid as of February 1, 2015, and therefore eligible for continuous coverage, the August 5, 2015 eligibility determination is MODIFIED to state that while you were no longer eligible for Medicaid, your coverage would continue for twelve months, or until January 31, 2016.

Since the August 6, 2015 disenrollment notice is no longer supported by the record, it is also RESCINDED.

The second issue under review is whether your [REDACTED] was properly disenrolled from his Medicaid Managed Care (MMC) plan, CDPHP, effective September 30, 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).

The [REDACTED] eligibility determination notice also stated that your son was eligible for Medicaid as of August 1, 2015. That determination has not been appealed and is not under review here.

Your son's enrollment with CDPHP began on July 1, 2015 in connection with his conditional eligibility for Medicaid as reflected in the July 31, 2015 eligibility determination.

Without an eligibility deduction having been issued on the matter, a disenrollment notice was issued on September 15, 2015 stating that his coverage with CDPHP would be terminated effective September 30, 2015.

Again, since you were determined eligible for Medicaid based on the application you submitted on July 30, 2015, your newborn son remains eligible for Medicaid for 12 continuous months, subject to some exceptions not applicable here. As a result, your son was improperly disenrolled from his MMC plan effective September 30, 2015.

Since the Marketplace determined your son eligible for Medicaid as of July 1, 2015, and therefore eligible for continuous coverage, the September 15, 2015 disenrollment notice is RESCINDED.

Decision

The August 5, 2015 eligibility determination is MODIFIED to state that while you were no longer eligible for Medicaid, your coverage would continue for 12 months, or until January 31, 2016.

The August 6, 2015 disenrollment notice is RESCINDED.

The September 15, 2015 disenrollment notice is RESCINDED.

Effective Date of this Decision: February 4, 2016

How this Decision Affects Your Eligibility

Your MMC coverage with CDPHP is reinstated as of September 1, 2015.

Your Medicaid coverage, which began on February 1, 2015, continues until at least January 31, 2016.

Your son's MMC coverage with CDPHP is reinstated as of October 1, 2015.

Your son's Medicaid coverage, which began on July 1, 2015, continues until at least June 31, 2016.

Your case is returned to the Marketplace to facilitate renewing your insurance coverage after January 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

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Summary

The August 5, 2015 eligibility determination is MODIFIED to state that while you are no longer eligible for Medicaid, your coverage will continue for twelve months, or until January 31, 2016.

The August 6, 2015 disenrollment notice is RESCINDED.

The September 15, 2015 disenrollment notice is RESCINDED.

Your MMC coverage with CDPHP is reinstated as of September 1, 2015.

Your Medicaid coverage, which began on February 1, 2015, continues until at least January 31, 2016.

Your son's MMC coverage with CDPHP is reinstated as of October 1, 2015.

Your son's Medicaid coverage, which began on July 1, 2015, continues until at least June 31, 2016.

Your case is returned to the Marketplace to facilitate renewing your insurance coverage after January 31, 2016.

Legal Authority

We are sending you this notice in accordance with 45 Code of Federal Regulations (CFR) § 155.545(a).

A Copy of this Decision Has Been Provided To:

