



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

Notice of Decision

Decision Date: January 15, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004692

[REDACTED]

Dear [REDACTED],

On December 9, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's September 2, 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 and the 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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Issue

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

Did the Marketplace properly determine that your daughter was not eligible for retroactive Medicaid coverage during the month of July 2014?

Procedural History

The Marketplace received an application for health insurance on August 14, 2014 in which you attested to expected annual household income \$28,122.00; you did not request assistance for medical expenses incurred in the three months prior to your application.

On August 15, 2014, the Marketplace issued a notice stating that your daughter might be eligible for insurance coverage through NY State of Health, but that more information was needed to make a determination. The notice requested that you provide income documentation by September 1, 2014 to confirm that the information in your application was accurate.

The Marketplace received a revised application for health insurance on August 18, 2014.

On August 19, 2014, the Marketplace issued an eligibility redetermination notice based on the information contained in the August 18, 2014 application. The notice stated that your daughter was eligible for Medicaid. The notice further stated that your daughter's insurance coverage through Medicaid would begin August 1, 2014.

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On February 27, 2015, the Marketplace issued a notice stating that a determination could not be made on your request for coverage for medical expenses for the three months prior to your August 18, 2014 application because it needed additional income documentation.

On March 4, 2015, the Marketplace received a copy of your employee earnings record, issued by [REDACTED], for the period from July 1, 2014 to July 31, 2014.

On September 2, 2015, the Marketplace issued a notice stating that your daughter was not eligible for Medicaid coverage during July 2014 because your household income for July of 2014 of \$2,730.00 was more than the allowable income limit of \$2,579.00.

On September 14, 2015, you spoke to the Marketplace's Account Review Unit and appealed the September 2, 2015 eligibility determination insofar as your daughter was found ineligible for Medicaid coverage during the month of July 2014.

On December 9, 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) You testified that you live with your spouse and daughter.
- 2) You testified that you filed your 2014 tax return with a tax filing status of married filing jointly. You claimed your daughter as a dependent on that tax return.
- 3) Your relevant applications were received on August 14, 2014 and August 18, 2014.
- 4) At the time of your applications, your daughter was three years old.
- 5) In your applications, you attested to an annual household income of \$28,122.00, which was comprised of (1) \$546.00 per week in earnings from [REDACTED], and (2) \$270.00 in annual student loan interest deductions.
- 6) Based on the August 18, 2014 application, your daughter was found eligible for Medicaid coverage beginning August 1, 2014.

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- 7) You contacted the Marketplace on March 4, 2015 to request retroactive Medicaid coverage for your daughter for the month of July 2014.
- 8) On March 4, 2015, you provided a copy of an employee earnings record, issued by [REDACTED], which reflects that you received (1) \$546.00 on July 3, 2015, (2) \$546.00 on July 10, 2015, (3) \$546.00 on July 17, 2015, (4) \$546.00 on July 24, 2015, and (5) \$546.00 on July 31, 2015.
- 9) You testified that you felt that this determination was unfair because your receipt of five payments in a month is atypical, but just happened to occur in July 2014.
- 10) Your application reflects that your spouse is unemployed, and is not otherwise receiving any income.
- 11) You testified that you would like your daughter to be determined eligible for Medicaid coverage during July 2014 since you incurred approximately \$500.00 of out-of-pocket medical expenses during that month.

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

Applicable Law and Regulations

Medicaid

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).

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 2014 FPL, which is \$19,790.00 for a three-person household (79 Fed. Reg. 3593).

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).

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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 or she 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)).

Modified Adjusted Gross Income

The Marketplace bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term “modified adjusted gross income” means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) Social Security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

“Adjusted gross income” is the gross income of the taxpayer minus the deductions permitted (26 USC § 62). Subject to some limitations, interest on a qualified educational loan can be deducted from adjusted gross income in an amount up to \$2,500 in interest paid by taxpayers during the taxable year, whose yearly income does not exceed \$160,000 (26 USC § 221; see *also* 26 USC § 62 (17)).

Legal Analysis

The issue under review is whether the Marketplace properly determined that your daughter was ineligible for retroactive Medicaid coverage for the month of July 2014.

You are in a three-person household; you filed your 2014 tax return with a tax filing status of married filing jointly and claimed your daughter as your dependent on that tax return.

Your daughter was found eligible for Medicaid in the August 19, 2014 eligibility determination notice based on your August 18, 2014 application. Since the application that resulted in a determination of Medicaid eligibility was filed during August 2014, your daughter’s Medicaid coverage began August 1, 2014.

You testified that you are seeking to have your daughter’s Medicaid coverage retroactively applied for the month of July 2014.

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 July 2014, your daughter would have needed to meet the non-financial criteria and have an income no greater than 154% of the FPL, which is \$2,540.00 per month. There is no indication in the record that your daughter would have been ineligible for Medicaid based on non-financial criteria during July 2014.

You provided an employee earnings record, issued by [REDACTED] which reflected that that you received \$2,730.00 during July 2014. You also testified that the sole deduction you claimed on your 2014 tax return was a \$270.00 student loan interest deduction, which when pro-rated over 2014, results in a monthly deduction of \$22.50. Accordingly, the credible evidence of record reflects that your modified adjusted gross income during July 2014, after permissible deductions relating to your student loan interest paid, was \$2,707.50.

Since your July 2014 income of \$2,707.50 was more than the \$2,540.00 monthly Medicaid limit for a two year old child during July 2014 for a three-person household, your daughter was correctly found to be ineligible for retroactive Medicaid coverage for the month of July 2014. There is no provision in law or regulation that would allow for a decrease in your monthly income because you would not ordinarily have earned that much in a given month.

Decision

The September 2, 2015 eligibility determination is MODIFIED only to state that your monthly income in July 2014 was \$2,707.50; and it is AFFIRMED in all other respects

Effective Date of this Decision: January 15, 2016

How this Decision Affects Your Eligibility

Your daughter remains eligible for Medicaid coverage beginning August 1, 2014.

Your daughter is not eligible for retroactive Medicaid coverage for the month of July 2014.

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 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
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- By fax: 1-855-900-5557

Summary

The September 2, 2015 eligibility determination is MODIFIED to state that your daughter was not eligible for Medicaid during July 2014 because your household income of \$2,707.50 is over the allowable limit of \$2,540.00, though otherwise affirmed.

Your daughter remains eligible for Medicaid coverage beginning August 1, 2014.

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Your daughter is not eligible for retroactive Medicaid coverage for the month of July 2014.

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

