



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

Notice of Decision

Decision Date: December 21, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004726

[REDACTED]

Dear [REDACTED],

On December 3, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 27, 2015 and September 18, 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 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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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 August 1, 2015?

Did the Marketplace properly determine that your children were no longer eligible for Medicaid, but would continue to receive Medicaid coverage until August 31, 2016?

Procedural History

On August 27, 2015, an eligibility determination notice was issued stating that your children were eligible for Medicaid because your household income of \$22,620.00 was at or below the allowable income limit. This eligibility was effective as of August 1, 2015.

Also on August 27, 2015 the Marketplace issued a disenrollment notice stating that your children's coverage in their Child Health Plus plan would end August 31, 2015 because they were no longer eligible to remain enrolled in that health plan.

On September 17, 2015 your account was modified to reflect an attested income of \$32,737.60. That day, a preliminary eligibility determination was prepared stating that your children were no longer eligible for Medicaid; however, their Medicaid coverage would continue because certain individuals who are determined eligible for Medicaid remain eligible for twelve continuous months.

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Also on September 17, 2015, you spoke to the Marketplace's Account Review Unit and appealed the preliminary eligibility determination insofar as it determined your children continuously eligible for Medicaid and not eligible for Child Health Plus.

On September 18, 2015 the Marketplace issued a notice of eligibility determination stating that your children were no longer eligible for Medicaid. However, their Medicaid coverage would continue until August 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 eligibility was effective as of September 1, 2015.

On December 3, 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 are only appealing your children's eligibility determinations.
- 2) You expect to file your 2015 federal income tax return as Head of Household, and claim your two children as dependents.
- 3) Your children are 12 years old and 17 years old.
- 4) According to the August 26, 2015 application, you attested to an expected household income of \$22,620.00. You testified that, at the time you submitted your application, this income was an accurate reflection of your expected income for the 2015 tax year.
- 5) You testified that you began a new job at the end of August 2015, and your income changed.
- 6) According to the September 17, 2015 application, you attested to an increased expected annual household income of \$32,737.60.
- 7) You testified that you would like your children's eligibility redetermined for Child Health Plus because their doctor's do not accept their Medicaid plan.

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 was \$20,090.00 for a three-person household (80 Fed. Reg. 3236, 3237).

Most people determined eligible for Medicaid are guaranteed twelve 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 twelve-month period. This twelve-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)).

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 first issue under review is whether the Marketplace properly determined that your children were eligible for Medicaid effective August 1, 2015.

Your children are in a three-person household. According to the record, you expect to file your 2015 tax return as Head of Household and claim your twelve-

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year-old child and your seventeen-year-old child as dependents on that tax return.

On your August 26, 2015 application, you attested to an expected household income of \$22,620.00. You credibly testified that the income you provided of \$22,620.00 in the August 26, 2015 application was an accurate reflection at that time of your expected 2015 household income.

Medicaid can be provided through the Marketplace to children between the ages of one and nineteen who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 154% of the FPL for the applicable family size. Since \$22,620.00 is 112.59% of the 2015 FPL for a three-person household the Marketplace properly found your children to be eligible for Medicaid.

Accordingly, the August 27, 2015 notice of eligibility determination that your children were eligible for Medicaid is correct and is AFFIRMED.

The second issue is whether the Marketplace properly determined that your children were no longer eligible for Medicaid, but would continue to receive Medicaid coverage until August 31, 2015.

Under New York State law, once a child is eligible for Medicaid, that eligibility generally continues for twelve months, even if the household income rises above 154% of the FPL. This provision is called "continuous coverage."

The record reflects that on September 17, 2015 you changed the income amount in your application because you had recently obtained new employment and your expected income subsequently increased. However, since your children were correctly determined eligible for Medicaid based on the application you submitted on August 26, 2015, they remain eligible for Medicaid for twelve continuous months regardless of any increases in your household income.

Since the Marketplace properly determined your children eligible for Medicaid, and therefore eligible for continuous coverage, the September 18, 2015 eligibility determination is AFFIRMED.

You testified that you want your children enrolled in health coverage through Child Health Plus and not Medicaid. However, under New York State's Public Health Law, a Medicaid-eligible child does not qualify to enroll in health insurance through Child Health Plus.

Decision

The August 27, 2015 and September 18, 2015 eligibility determinations are AFFIRMED.

Effective Date of this Decision: December 21, 2015

How this Decision Affects Your Eligibility

Your children remain eligible for Medicaid coverage.

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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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The August 27, 2015 and September 18, 2015 eligibility determinations are AFFIRMED.

Your children remain eligible for Medicaid coverage.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

