



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

Notice of Decision

Decision Date: February 2, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004962

[REDACTED]

Dear [REDACTED],

On January 6, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's October 14, 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.

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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Decision

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NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000004962



Issue

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

Did the Marketplace properly determine that your newborn daughter was not eligible for retroactive Medicaid coverage during the month of August 2015?

Procedural History

Between October 5, 2015 and October 9, 2015, the Marketplace received eight different earnings statements issued to you by your employer, [REDACTED], between August 7, 2015 and October 2, 2015.

The Marketplace redetermined your October 5, 2015 application, in which you attested to an annual household income \$42,777.74, on October 13, 2015. This application indicated that you were requesting help in paying for medical bills from the previous three months for your newborn daughter, [REDACTED].

On October 14, 2015, the Marketplace issued an eligibility determination notice based on the information contained in the October 5, 2015 application. The notice stated, in relevant part, that your newborn daughter remained eligible for Medicaid, effective October 1, 2015. The notice further stated that you would be receiving a separate notice telling you whether your daughter was eligible for Medicaid for the three months prior to your application.

Also on October 14, 2015, the Marketplace issued an eligibility determination notice stating that your daughter was eligible for retroactive Medicaid coverage

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for the period from September 1, 2015 through September 30, 2015 because her household income of \$3,384.60 was below the allowable income limit of \$3,734.00, and ineligible for retroactive Medicaid coverage for the period from August 1, 2015 through August 31, 2015 because her household income of \$3,772.14 was over the allowable monthly income limit of \$3,734.00.

On October 20, 2015, you spoke to the Marketplace's Account Review Unit and appealed the October 14, 2015 eligibility determination insofar as your newborn daughter was found ineligible for retroactive Medicaid coverage during the month of August 2015.

On January 7, 2016, 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) Your application reflects that you live with your spouse and newborn daughter.
- 2) Your newborn daughter was born on [REDACTED].
- 3) Your application reflects that you anticipate filing a tax return separately from your spouse and claiming your newborn daughter as your sole dependent.
- 4) Your relevant application was received on October 13, 2015.
- 5) In your application, you attested to an annual household income of \$42,777.74, which was comprised of \$44,000.00 in income you expect to receive from your employer, [REDACTED] and a health savings account deduction of \$47.01 once every two weeks. You testified that this was accurate.
- 6) Between October 5, 2015 and October 9, 2015, you provided the Marketplace with eight distinct earnings statements issued to you by [REDACTED] reflecting that you received: (1) \$1,233.69 on August 7, 2015, which was further reduced to \$1,080.81 due to pre-tax deductions totaling \$152.88, (2) \$846.15 on August 14, 2015, which was further reduced to \$704.91 due to pre-tax deductions totaling \$141.24, (3) \$846.15 on August 21, 2015, which was further reduced to \$704.90 due to pre-tax deductions totaling \$141.25, (4) \$846.15 on September 4, 2015, which was further reduced to \$692.71 due to pre-tax

deductions totaling \$153.44, (5) \$846.15 on September 11, 2015, which was further reduced to \$705.01 due to pre-tax deductions totaling \$141.14, (6) \$846.15 on September 18, 2015, which was further reduced to \$705.01 due to pre-tax deductions totaling \$141.14, (7) \$846.15 on September 25, 2015, which was further reduced to \$705.01 due to pre-tax deductions totaling \$141.14, and (8) 846.15 on October 2, 2015, which was further reduced to \$705.01 due to pre-tax deductions totaling \$141.14.

- 7) Within each of the earnings statements provided, the pre-tax deductions included employee contributions for your health insurance, contributions to a health savings account, and contributions to a 401(k) retirement account.
- 8) Your October 13, 2015 application included a request in seeking help to pay medical bills for your newborn daughter for the months of August 2015 and September 2015.
- 9) Based on the October 13, 2015 application, your newborn daughter was found eligible for Medicaid coverage beginning October 1, 2015. Also, based on the on October 13, 2015 application and the earning statements provided to the Marketplace, you daughter was found eligible for retroactive Medicaid for the month of September 2015 and ineligible for retroactive Medicaid for the month of August 2015.
- 10) You testified that you felt this determination was unfair because your typical income was skewed during August 2015 as a result of having received sick pay you accrued during the prior month.
- 11) You testified that you were seeking retroactive Medicaid coverage for your newborn daughter during August 2015 since you have incurred out-of-pocket costs relating to her post-natal care.

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

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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).

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).

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)).

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). A deduction is permitted for an amount equal to the aggregate amount paid by an individual during the taxable year to the health savings account of such individual, subject to some limitations (26 USC § 223).

Legal Analysis

The issue under review is whether the Marketplace properly determined your newborn daughter was ineligible for retroactive Medicaid coverage for the month of August 2015. We confine our review of your newborn daughter's retroactive Medicaid eligibility solely to August 2015 since this was the only month you are seeking coverage for which she was denied.

Your newborn daughter is in three-person household since she lives with you and your spouse.

Your newborn daughter was found eligible for Medicaid based on the October 14, 2015 eligibility determination notice. Since the application that resulted in a determination of Medicaid eligibility was filed during October 2015, her Medicaid coverage properly began October 1, 2015.

You testified, and the October 13, 2015 application reflects, that you are seeking retroactive Medicaid coverage for your newborn daughter for the month of August 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 August 2015, your newborn daughter would have needed to meet the non-financial criteria and have a household income no greater than 223% of the FPL, which is \$3,734.00 per month. There is no indication in the record that your newborn daughter would have been ineligible for Medicaid based on non-financial criteria during August 2015.

You provided earnings statements issued by [REDACTED] that reflect that you received a total gross income during August 2015 of \$3,772.14; however, this total gross income is further reduced to \$3,183.33 as a result of pre-tax deductions relating to your employee contributions for your health insurance, contributions to a health savings account, and contributions to a 401(k) retirement account. Such deductions are appropriately excluded from your newborn daughter's modified adjusted gross income.

Since your household income during August 2015 of \$3,183.33 was less than the \$3,734.00 monthly Medicaid limit during that month for a three-person household, the credible evidence of record no longer supports the findings of the October 14, 2015 eligibility determination notice with respect to her Medicaid eligibility during August 2015. Accordingly, the October 14, 2015 eligibility

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determination notice is MODIFIED to state that your newborn daughter is eligible for retroactive Medicaid between August 1, 2015 and August 31, 2015 because your household income of \$3,195.54 is less than the monthly limit of \$3,734.00.

Decision

The October 14, 2015 eligibility determination notice is MODIFIED to state that your newborn daughter was eligible for retroactive Medicaid between August 1, 2015 and August 31, 2015 because your household income of \$3,195.54 is less than the monthly limit of \$3,734.00.

Your case is RETURNED to the Marketplace to effectuate the change in your newborn daughter's eligibility for retroactive Medicaid in August 2015 and to inform you accordingly.

Effective Date of this Decision: February 2, 2016

How this Decision Affects Your Eligibility

Your newborn daughter is eligible for retroactive Medicaid coverage during August 2015.

The Marketplace will ensure that her eligibility for retroactive Medicaid is made effective August 1, 2015 to August 31, 2015, and will send you a notice to this effect.

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)).

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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 October 14, 2015 eligibility determination notice is MODIFIED to state that your newborn daughter is eligible for retroactive Medicaid between August 1, 2015 and August 31, 2015 because your household income of \$3,195.54 is less than the monthly limit of \$3,734.00.

Your case is returned to the Marketplace to effectuate the change in your newborn daughter's eligibility for retroactive Medicaid in August 2015 and to inform you accordingly.

Your newborn daughter is eligible for retroactive Medicaid coverage during August 2015.

The Marketplace will ensure that her eligibility for retroactive Medicaid is made effective August 1, 2015 to August 31, 2015, and will send you a notice to this effect.

Legal Authority

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A Copy of this Decision Has Been Provided To:

