



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

Notice of Decision

Decision Date: January 29, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000005042

[REDACTED]

Dear [REDACTED],

On January 12, 2016, you appeared by telephone at a hearing on the NY State of Health's October 27, 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 at the top of this notice.

Legal Authority

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

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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 newborn child was eligible for Child Health Plus, effective December 1, 2015?

Procedural History

On September 30, 2015, an application for health insurance was submitted to the Marketplace on behalf of your newborn child.

On October 1, 2015 the Marketplace issued a notice stating that your child may be eligible for health insurance but more information was needed to make a determination. You were asked to submit income documentation by October 16, 2015 to confirm that the information in your application was accurate.

Between October 15, 2015 and October 26, 2015, your child's application was modified several times. As a result of these modifications, the Marketplace issued several more notices stating that your child may be eligible for health insurance but more information was needed to make a determination.

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On October 27, 2015, the Marketplace issued a notice of eligibility determination stating that your child was conditionally eligible to enroll in a Child Health Plus plan with a \$30.00 monthly premium, effective December 1, 2015. It further stated that your child was not eligible for Medicaid because your household income of \$55,000.14 was over the allowable income limit for that program.

Also on October 27, 2015, you spoke with the Marketplace's Account Review Unit and appealed that determination insofar as your newborn child's Child Health Plus eligibility was not effective until December 1, 2015, instead of September 26, 2015, your child's date of birth.

On October 28, 2015, the Marketplace issued a notice confirming your child's enrollment in a Child Health Plus plan. This coverage was effective December 1, 2015.

On January 12, 2016, 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 up to 15 days to provide you an opportunity to submit supporting evidence, including proof of your income for 2015.

On January 13, 2016, the Marketplace's Appeals Unit received your supporting evidence, which includes a copy of your last paystub from your previous employer, and a copy of your final paystub for the 2015 tax year. These documents were collectively marked as Appellant's Exhibit 1, and incorporated into the record. On January 14, 2016, the Marketplace's Appeals Unit received your additional supporting evidence, which includes proof of your short-term disability claim payments. These documents were collectively marked as Appellant's Exhibit 2, and incorporated into the record. The record is now closed.

Findings of Fact

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

- 1) You testified that you contacted the Marketplace prior to the birth of your child to determine his prospective eligibility for health insurance, and to confirm that he would be covered by Medicaid as of his date of birth.
- 2) You testified, and your Marketplace application confirms, that your child was born on [REDACTED].
- 3) The record reflects that your child was added to your Marketplace account on September 30, 2015, and an application was submitted on your child's behalf that day.

- 4) According to the application submitted on September 30, 2015, you attested to an expected household income of \$36,000.00 for the 2015 tax year, which consisted of your earned income. You testified that this was an accurate reflection of your expected income at that time. You further testified that your spouse is currently a student and is not employed.
- 5) You testified, and provided evidence, that you were employed by [REDACTED] from January to April 2015 (Appellant's Exhibit 1, January 13, 2016). According to the evidence provided, you earned \$10,435.40 from your employment with [REDACTED] in 2015, before taxes were deducted (*Id.*).
- 6) On October 20 and October 22, 2015, two paystubs were uploaded to your Marketplace account. The documentation reflects that you received \$2,115.39 on October 2, 2015, and \$2,115.39 on October 16, 2015 from your employment with [REDACTED]. before taxes were deducted.
- 7) On October 26, 2015, your application was modified to reflect an expected household income of \$55,000.14, which only includes your earned income from [REDACTED].
- 8) On October 27, 2015, a letter from your current employer was updated, indicating that you began working at [REDACTED] on April 13, 2015. The letter further stated that you will receive an annual salary of \$55,000.14 to be paid bi-weekly.
- 9) You testified that you were on maternity leave for 6 weeks beginning September 22, 2015. You further testified and provided evidence that you received short-term disability benefits during that time (Appellant's Exhibit 2, January 14, 2016). According to the evidence provided, you were issued two payments on October 2, 2015, one in the amount of \$272.00, and the other in the amount of \$1,023.00, before taxes were deducted (*Id.*).
- 10) According to the evidence provided, you earned \$31,307.78 from your employment with [REDACTED] for the 2015 tax year before taxes were deducted (Appellant's Exhibit 1, January 13, 2016).
- 11) The record reflects that you expect to file your 2015 federal income tax return jointly with your spouse, and will claim your child as a dependent.
- 12) Your application states that you live in Suffolk County.
- 13) You testified that you received a Medicaid card for your child and believed that he would have Medicaid coverage from his date of birth. You further testified that you have been informed that the hospital in which he was born is unable to bill

for your child's services because his name and date of birth have not been updated within the Medicaid system.

14) You testified that your child has incurred numerous medical bills associated with his birth.

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

Applicable Law and Regulations

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)).

Child Health Plus (CHP) is a sliding-scale-premium program for children who are in a household that is over income for regular Medicaid (see NY Public Health Law § 2510 et seq. and 42 USC § 1397(a)). Eligibility rules are set out in NY Public Health Law § 2511(2), as well as in the NYSDOH 2008-2012 Contract and Plan Manual.

The amount of the premium payment, if any, that must be made on behalf of a child who enrolls in CHP depends upon the child's family household income (PHL § 2510(9)(d)). No payments are required for eligible children whose family household income is less than 160% of the FPL. If the family household income is 160% or higher, premiums range from \$9.00 per month to \$60.00 per month (PHL § 2510(9)(d)).

The CHP premium is \$30.00 per month for a child whose family household income is between 251% and 300% of the FPL (PHL § 2510(9)(d)(iv)).

In an analysis of Child Health Plus 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).

"A State must specify a method for determining the effective date of eligibility for [Child Health Plus], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [Child Health Plus] and other insurance affordability programs as family circumstances change and avoids gaps or overlaps in coverage" (42 CFR § 457.340(f)).

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The State of New York has provided that a child's period of eligibility for Child Health Plus begins on the first day of the month during which a child is eligible. A child will become eligible on the first day of the next month if the application is received by the 15th of the month; applications received after the 15th day of the month will be processed for the first day of the second subsequent month (see e.g. State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

Medicaid for Children

A child who is under one year of age 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 223% of the FPL for the applicable family size. (42 CFR § 435.118(c); New York Department of Social Services Administrative Directive 13ADM-03).

In the case of an individual who expects to file a tax return and does not expect to be claimed by another taxpayer, the household consists of the taxpayer and all persons whom such individual expects to claim as a tax dependent (42 CFR § 435.603(f)(1)).

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).

Legal Analysis

The issue under review is whether the Marketplace properly determined that your child was eligible for Child Health Plus, effective December 1, 2015.

According to the record, you expect to file a joint federal income tax return with your spouse for the 2015 tax year, and claim your one child as a dependent. Therefore, your child is in a three-person household.

On your September 30, 2015 application, you attested to an expected household income of \$36,000.00. The application also indicated that your child was born on [REDACTED] and, therefore, was 0 years old. You testified that this was an accurate reflection of your expected income for the 2015 tax year.

On October 1, 2015, the Marketplace sent you a notice stating that more income information was required to make an eligibility determination for your child.

The record reflects that income documentation was provided between October 15, 2015 and October 27, 2015. According to the documentation provided, you began working at [REDACTED] on April 13, 2015 at an annual salary of \$55,000.14, to be paid-bi-weekly.

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On October 26, 2015, your Marketplace application was updated to reflect an expected household income of \$55,000.14 for the 2015 tax year.

A child is eligible to enroll in Child Health Plus if they meet the non-financial requirements, are not eligible for Medicaid, and have a household income below 400% of the federal poverty level (FPL). Household income between 251% and 300% of that FPL are responsible for a \$30.00 per month Child Health Plus premium payment. On the date of your application, the relevant FPL was \$20,090.00 for a three-person household. Since \$55,000.14 is 273.77% of the 2015 FPL, the Marketplace properly found your child to be eligible for Child Health Plus with a \$30.00 monthly premium payment based on the information listed in the October 26, 2015 application.

However, you credibly testified, and provided evidence, that the income listed in the October 26, 2015 application was improperly calculated.

You testified that you worked at a different company from January through April 2015. According to the evidence provided after the hearing, you earned a total of \$10,435.40 in 2015 from your employment with [REDACTED]. You further provided evidence that you began working at [REDACTED] on April 13, 2015, and received \$31,307.78 from this employment during the 2015 tax year. You also testified that you were on maternity leave for 6 weeks, beginning on September 22, 2015, and following the birth of your child. You provided evidence that you received two short-term disability payments during this time, issued on October 2, 2015. According to the evidence provided, you received one payment in the amount of \$1,023.00 and a separate payment in the amount of \$272.00. Therefore, for the 2015 tax year, your household income was \$43,038.18.

The record reflects that you uploaded a letter from your employer on October 27, 2015 indicating that your employment began on April 13, 2015 with an annual salary of \$55,000.14. However, your application was not adjusted to reflect that you did not expect to receive the total of this annual salary for the 2015 tax year because your employment began mid-year.

Since the October 27, 2015 eligibility determination was issued based on inaccurate information, it is RESCINDED.

Your case is RETURNED to the Marketplace to redetermine your child's eligibility as of September 30, 2015, when you originally applied for health insurance for your child, using a three-person household residing in Suffolk County, and a household income of \$43,038.18 for the 2015 tax year.

Decision

The October 27, 2015 eligibility determination is RESCINDED.

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Your case is RETURNED to the Marketplace to redetermine your child's eligibility as of September 30, 2015, using a three-person household residing in Suffolk County, and a household income of \$43,038.18 for the 2015 tax year.

Effective Date of this Decision: January 29, 2016

How this Decision Affects Your Eligibility

This decision does not change your child's eligibility.

It returns your case to the Marketplace to redetermine his eligibility for health insurance using a three-person household residing in Suffolk County, and a household income of \$43,038.18 for the 2015 tax year.

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):

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).

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 27, 2015 eligibility determination is RESCINDED.

Your case is RETURNED to the Marketplace to redetermine your child's eligibility as of September 30, 2015, using a three-person household residing in Suffolk County, and a household income of \$43,038.18 for the 2015 tax year.

This decision does not change your child's eligibility.

It returns your case to the Marketplace to redetermine his eligibility for health insurance using a three-person household residing in Suffolk County, and a household income of \$43,038.18 for the 2015 tax year.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

