



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

## Notice of Decision

Decision Date: February 16, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000005136

[REDACTED]

Dear [REDACTED],

On January 22, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 4, 2015 eligibility determination, and enrollment confirmation 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 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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## Decision

Decision Date: February 16, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000005136



## Issue

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

Did the Marketplace properly determine that your newborn child was not eligible for health insurance coverage as of the date of her birth?

## Procedural History

On March 21, 2015, the Marketplace issued a notice of eligibility determination stating that you were eligible for Medicaid, effective March 1, 2015, and you were enrolled in your Medicaid Managed Care plan effective May 1, 2015.

On November 3, 2015, an application for health insurance was submitted to the Marketplace on behalf of your newborn child.

On November 4, 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 \$15.00 monthly premium, effective December 1, 2015. The notice also stated that you were no longer eligible for Medicaid coverage but that your Medicaid coverage would continue until February 29, 2016; this eligibility was effective November 1, 2015. It further stated that you and your child were not eligible for Medicaid because your household income of \$48,758.00 was over the allowable income limit for that program.

Also on November 4, 2015, the Marketplace issued a notice confirming your child's enrollment in a Child Health Plus plan. This coverage was effective December 1, 2015.

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On November 10, 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 [REDACTED], [REDACTED] your child's date of birth.

On January 5, 2016 the Marketplace issued a disenrollment notice stating that your daughter had been disenrolled from her Child Health Plus plan effective December 31, 2015 because a premium payment had not been received.

On January 22, 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 seven days to provide you an opportunity to submit supporting evidence, including proof of your household's income for the month of November 2015.

No additional evidence was received by the Marketplace by February 1, 2016. The record is now closed.

## **Findings of Fact**

A review of the record support the following findings of fact:

- 1) You testified, and your Marketplace application confirms, that your child was born on [REDACTED].
- 2) You testified that you contacted the Marketplace to confirm that your child would be covered through your health insurance as of her date of birth and continuing for the first 30 days of her life.
- 3) You testified, and your Marketplace application confirms, that you were covered under a Medicaid Managed Care plan at the time your child was born. You further testified that you contacted your Medicaid Managed Care plan to report the birth of your child, but were told that you must contact the Marketplace to ensure your child's coverage.
- 4) You testified that you contacted the Marketplace on November 2, 2015, after the birth of your child, to report her birth. The record reflects that your child was added to your Marketplace account on November 3, 2015, and an application was submitted on your child's behalf that day. The record further reflects that your child was enrolled in a Child Health Plus plan.
- 5) According to the application submitted on November 3, 2015, you attested to an expected household income of \$48,758.00 for the 2015 tax year, which consisted of earned income for yourself and your spouse. You

testified that this is not an accurate reflection of your household income for the months of November and December 2015, because you had been out of work on maternity leave during that period.

- 6) You testified that your maternity leave began on [REDACTED], and you received short-term disability for 6 weeks following that date. You further testified that you received two payments through your short-term disability insurance, one in mid-November and one in early December 2015.
- 7) The record reflects that you expect to file your 2015 tax return jointly with your spouse, and will claim your child as a dependent.
- 8) Your application states that you live in Suffolk County.
- 9) You testified that your child has incurred numerous medical bills associated with her birth.

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

## **Applicable Law and Regulations**

### Medicaid for Pregnant Woman

For purposes of Medicaid eligibility, the household size of either a pregnant woman or a person who is in the family of a pregnant woman includes not only the pregnant woman, but also the number of children she expects to deliver (42 CFR § 435.603(b); State Plan Amendment (SPA) 13-0055-MM3, as approved by the US Department of Health and Human Services, March 19, 2014).

Medicaid is currently available to pregnant women who have a modified adjusted gross income at or below 223% of the FPL for the applicable family size (see 42 CFR § 435.116(c); NY Department of Health Administrative Directive 13ADM-03).

### 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).

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).

### Newborn Child – Effective Date of Coverage for Medicaid

Medicaid coverage must be provided to a child born to a woman who has been determined eligible and is receiving Medicaid on the date of the child's birth (42 CFR § 435.117(a), N.Y. Soc. Serv. Law § 366-g(3)). Additionally, Medicaid MMCs are contractually obligated to provide coverage to eligible newborns from the date of birth (Medicaid Managed Care Model Contract (Appendix H-3(a), effective 3/1/2014 – 2/28/2019).

### 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 issue under review is whether the Marketplace properly determined that your newborn child was not eligible for health insurance coverage as of the date of her birth.

On March 21, 2015, the Marketplace issued a notice of eligibility determination stating that you were eligible for Medicaid, effective March 1, 2015, and you were enrolled in your Medicaid Managed Care plan effective May 1, 2015.

Medicaid coverage must be provided to a child born to a woman who has been determined eligible and is receiving Medicaid on the date of the child's birth.

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Newborns are permitted to enroll in Medicaid Managed Care coverage, which is guaranteed under the law to begin as of their date of birth.

You testified that you contacted the Marketplace on November 2, 2015, after the birth of your child, to report her birth. The record reflects that your child was added to your Marketplace account on November 3, 2015, and an application was submitted on your child's behalf that day. That day, your eligibility was also redetermined.

On November 4, 2015, the Marketplace issued a notice of eligibility determination stating that your child was conditionally eligible to enroll in a Child Health Plus and that you were no longer eligible for Medicaid coverage but that your Medicaid coverage would continue until February 29, 2016, this eligibility was effective November 1, 2015.

Since your child was born on [REDACTED] you were still fully eligible for Medicaid coverage at that time, the eligibility finding you no longer eligible for Medicaid coverage was not effective until November 1, 2015.

Therefore, your child was eligible for Medicaid as of her date of birth and should have been enrolled in your Medicaid Managed Care plan effective [REDACTED]. Under New York State's Public Health Law, a Medicaid-eligible child does not qualify to enroll in health insurance through Child Health Plus. Therefore, the November 4, 2015 eligibility determination notice stating that your child is eligible to enroll in Child Health Plus and not eligible for Medicaid is RESCINDED.

Your case is RETURNED to the Marketplace to facilitate your child's enrollment in your Medicaid Managed Care plan effective [REDACTED].

A newborn child remains eligible for Medicaid so long as their mother remains enrolled in Medicaid coverage. Since your Medicaid coverage ends effective February 29, 2016, so does your child's. Your application has not been updated with information to renew your eligibility effective March 1, 2015. Furthermore, on January 5, 2016 the Marketplace issued a disenrollment notice stating that your child had been disenrolled from her Child Health Plus plan effective December 31, 2015 because a premium payment has not been made. In order to prevent a gap in coverage for your child, the Marketplace is directed to assist you in completing an application for your child for coverage effective March 1, 2015.

## **Decision**

The November 4, 2015 eligibility determination is RESCINDED.

Your case is RETURNED to the Marketplace to facilitate the enrollment of your child in your Medicaid Managed Care plan as of her date of birth through February 29, 2016.

In order to prevent a gap in coverage for your child, the Marketplace is directed to assist you in completing an application for your child for coverage effective March 1, 2015

**Effective Date of this Decision:** February 16, 2016

### **How this Decision Affects Your Eligibility**

Your child is eligible for coverage through your Medicaid Managed Care plan as of her date of birth through February 29, 2016.

Your case is returned to the Marketplace to facilitate the enrollment of your child in your Medicaid Managed Care plan and to conduct outreach to you to assist you in updating your application for coverage effective March 1, 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 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 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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P.O. Box 11729  
Albany, NY 12211
- By fax: 1-855-900-5557

## **Summary**

The November 4, 2015 eligibility determination is RESCINDED.

Your child is eligible for coverage through your Medicaid Managed Care plan as of her date of birth through February 29, 2016.

Your case is returned to the Marketplace to facilitate the enrollment of your child in your Medicaid Managed Care plan and to conduct outreach to you to assist you in updating your application for coverage effective March 1, 2016.

## **Legal Authority**

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

**A Copy of this Decision Has Been Provided To:**

