



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

Notice of Decision

Decision Date: February 12, 2016

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000005326

[REDACTED]

Dear [REDACTED]

On February 8, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 21, 2015 eligibility determination and November 25, 2015 cancellation notice regarding your twin infant children.

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 Code of Federal Regulation 45 CFR § 155.545(b).

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Decision Date: February 12, 2016

NY State of Health Number: [REDACTED]
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[REDACTED]

Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the Marketplace properly determine that your twin infant children were not eligible for retroactive Medicaid, effective September 1, 2015 through September 30, 2015?

Did the Marketplace properly determine that your twin infants were cancelled from their Medicaid Managed Care plan, effective as of the enrollment start date of December 1, 2015?

Procedural History

On October 27, 2015, the Marketplace received your application for health insurance for your twin infant children (children). In that application, you requested assistance with their medical bills for the three months prior to the application.

On October 28, 2015, the Marketplace issued an eligibility determination notice stating that your children were conditionally eligible for Medicaid, effective October 1, 2015. Their eligibility was conditioned upon you providing proof of their citizenship and their Social Security numbers before January 25, 2016.

That same day, the Marketplace issued an enrolment notice confirming that you had selected CDPHP, a Medicaid Managed Care (MMC) plan with an enrollment start date of December 1, 2015.

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On November 21, 2015, the Marketplace issued a notice of eligibility determination denying your request for retroactive Medicaid for your children for the month of September 2015 on the basis that your income that month was over the allowable monthly income limit for your children to be eligible for Medicaid.

On November 22, 2015, the Marketplace issued a notice of eligibility redetermination that your children were eligible for Medicaid without condition, effective November 1, 2015.

That same day, the Marketplace issued an enrollment notice confirming your children's enrollment in CDPHP, an MMC plan, with an enrollment start date of January 1, 2016.

On November 24, 2015, you spoke to the Marketplace's Account Review Unit and appealed that determination insofar as your children were not eligible for retroactive Medicaid for the month of September 2015.

Also on November 24, 2015, the Marketplace issued a notice of eligibility redetermination that your children were no longer eligible for Medicaid but would have continuous Medicaid coverage until October 31, 2016.

On November 25, 2015, the Marketplace issued an enrollment notice confirming your children's enrollment in CDPHP, an MMC plan, with an enrollment start date of January 1, 2016.

Also on November 25, 2015, the Marketplace issued a cancellation notice that your children's 2015 coverage with CDPHP would end effective December 1, 2015.

On February 8, 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 support the following findings of fact:

- 1) You testified that you filed your 2015 taxes with a tax filing status of Head of Household with Qualifying Individuals and claimed your two children as dependents on that tax return.
- 2) According to your Marketplace application and your testimony at hearing, your children were born on [REDACTED]

- 3) At the time of your [REDACTED] application, your children were 37 days old.
- 4) According to your Marketplace account, on [REDACTED], you selected an MMC plan with CDPHP, which the Marketplace determined would begin December 1, 2015. Your selection and the enrollment start date were confirmed in the October 28, 2015 enrollment notice issued by the Marketplace.
- 5) At the time your children were determined conditionally eligible for Medicaid, your annual household income on your Marketplace application was listed as \$30,000.00 in earnings.
- 6) According to your Marketplace account and your testimony, your October 2015 income consisted of short-term disability benefits totally \$469.20 gross per week, or \$1,876.80 gross per month.
- 7) You provided income documents for the month of September 2015 on several dates and testified that your income that month consisted of paid leave and short term disability benefits as follows:

Paid Leave: Received 09/12/2015 for \$1,416.80 gross
Received 09/25/2015 for 871.79 gross
\$2,288.59

Short Term Disability benefits:

Received 09/15/2015 for \$ 510.00 gross
Received 09/16/2015 for 299.20 adjusted gross
Received 09/16/2015 for 170.00
Received 09/23/2015 for 299.20 adjusted gross
Received 09/23/2015 for 170.00
Received 09/30/2015 for 299.20 adjusted gross
Received 09/30/2015 for 170.00
\$1,917.60

Based on the foregoing, the total income you received in September 2015 was \$4,206.19.

- 8) You testified that you took the full \$2,500.00 deduction for student loan interest you had paid in 2015 in calculating your adjusted gross income on your 2015 federal tax return, but had no other deductions.
- 9) The deduction of \$2,500.00 equals \$280.33 per month and when subtracted from your September 2015 income, your adjusted gross income was \$3,925.86 for that month.

- 10) According to your Marketplace account, on November 18, 2015, you provided the Marketplace with proof of your children's citizenship and their respective Social Security numbers.
- 11) According to your Marketplace account, based on your November 20, 2015 updated application and corresponding November 22, 2015 notice, your children's eligibility was redetermined and their eligibility for Medicaid was no longer conditional.
- 12) According to your Marketplace account, on November 23 or 24, 2015, you informed the Marketplace that you had returned to work and reported your current yearly income of \$48,020.00. This resulted in your household being over-income for Medicaid but your children remaining eligible for continuous coverage with Medicaid as stated in the November 25, 2015 notice.
- 13) According to a November 25, 2015 Marketplace note, when you provided the children's Social Security numbers, the system put them as pending Medicaid again, even though your income had already been verified. The note further states that this redetermination dis-enrolled your children from their MMC plan, which was to start December 1, 2015 and made it January 1, 2016, but they need their MMC coverage in December 2015 to see their pediatrician.
- 14) The November 25, 2015 cancellation notice confirms your children's CDPHP coverage was cancelled on the expected enrollment start date of December 1, 2015.
- 15) You testified that you would like your children to qualify for Medicaid in September 2015 and to be placed back on their CDPHP MMC plan as of December 1, 2015.

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 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).

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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, such as children (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).

Medicaid – Enrollment Start Date

An individual is eligible for fee-for-service Medicaid effective on the first day of the month if an individual was eligible any time during that month (42 CFR 435.915(b)).

Medicaid Managed Care (MMC) plan enrollments received on or before the fifteenth day of the month are effective the first day of the following month. Enrollments received after the fifteenth day of the month are effective the first day of the second following month (Medicaid Managed Care Model Contract (Appendix H-6(b)(ii) & (iii), effective 3/1/2014 – 2/28/2019; see, §1115 Soc. Sec. Act; N.Y. Soc. Serv. Law §364-j(1)(c); 18 NYCRR 360-10.3(h)).

Retroactive Medicaid

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 or she received the services if he or she had applied (42 CFR § 435.915(a)).

Medicaid Continuous Coverage

Most children under the age of nineteen determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage even if they lose Medicaid eligibility because of any changes or updates made to their Marketplace account. For example, even if the household's income increases above the Medicaid limit allowed for the household size, the insured will remain covered under Medicaid for a 12-month period. This 12-month period is referred to as “continuous coverage” and is set based on the start date of the original Medicaid eligibility

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determination or the date of a subsequent Medicaid eligibility determination based on modified adjusted gross income (N.Y. Soc. Serv. Law § 366(4)(b)(3)).

Legal Analysis

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

According to the record, you expect to file your 2015 federal tax return as Head of Household with Qualifying Individuals and to claim your two children as dependents. Therefore, your children are in a three-person household.

On your October 27, 2015 application, you attested to an expected household income of \$30,000.00. The application also stated that your children are under one year of age. The Marketplace relied upon this information.

Medicaid can be provided through the Marketplace to children under one year of age who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 223% of the FPL for the applicable family size. Since \$30,000.00 is 149.33% of the 2015 FPL for a three-person household the Marketplace properly found your children to be eligible for Medicaid. Similarly, since your monthly short-term benefits for that month equaled \$1,876.80, which is less than the allowable monthly income limit of \$3,734.00 for a three-person household, your children were eligible for Medicaid based on monthly income.

Since your children were determined eligible for Medicaid during the month of October 2015, the Marketplace properly made their eligibility for and health insurance coverage with Medicaid Fee-For- Services, effective as of the first of the month; that is October 1, 2015.

In addition, the record reflects that you selected an MMC plan for your children on October 27, 2015. In keeping with the rule for MMC plans selected after the 15th of the month, the Marketplace properly determined your children's enrollment start date as of the 1st day of the second following month after October 27, 2015; that is, December 1, 2015.

Accordingly, the October 28, 2015 notice of eligibility determination that your children were eligible for Medicaid, effective October 1, 2015, and the October 28, 2015 enrollment notice that your children were enrolled in CDPHP, an MMC plan, with a start date of December 1, 2015, are correct and are AFFIRMED.

When you reported a change in income because you had returned to work, the Marketplace properly redetermined your children's eligibility and found them eligible for continuous Medicaid coverage for 12 months from October 1, 2015,

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which means they have Medicaid until September 30, 2016. Therefore, the November 24, 2015 notice of eligibility redetermination is MODIFIED to state they have continuous Medicaid coverage until September 30, 2016, not October 31, 2016.

The second issue on appeal is the Marketplace's denial of your request for retroactive Medicaid coverage for your children for the month of September 2015. You testified that you are seeking to have your children's Medicaid coverage retroactively applied for the month of September 2015, as that is the month in which they were born and you incurred medical expenses for them.

Medicaid coverage can be made effective retroactively for up to three months prior to an individual's application if the individual, here, your children, 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 September 2015, your children would have needed to meet the non-financial criteria and have a household income no greater than 223% of the FPL for a three-person household, which was then \$3,734.00 per month.

You provided short term disability benefit statements, which reflect that you received \$1,917.60 in gross benefits during September 2015. You credibly testified that you also received paid leave that month totaling \$2,288.59. Together, these amounts equal \$4,206.19, which when monthly student loan interest of \$280.33 is subtracted equals \$3,925.86 in gross income received that month. Accordingly, the credible evidence of record reflects that your gross income received during September 2015 was \$3,925.86.

Since the gross income of \$3,925.86 you received during September 2015 was more than the Medicaid allowable monthly income limit of \$3,734.00 for a three-person household, the Marketplace correctly found your children to be ineligible for retroactive Medicaid coverage for the month of September 2015. Therefore, the November 21, 2015 notice of eligibility determination denying your children retroactive Medicaid from September 1, 2015 through September 30, 2015 is AFFIRMED.

Lastly, you requested at the hearing that the cancellation of your children's coverage, which was due to start on December 1, 2015, be reviewed. Initially, we reiterate that your children were entitled to an enrollment start date of December 1, 2015 in the MMC plan you had selected on October 29, 2015. However, before the enrollment start date occurred, on November 22, 2015, the system was triggered to redetermine your children's eligibility after you provided their Social Security numbers with a Medicaid effective date of November 1, 2015. It

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appears from your Marketplace account and the November 25, 2015 Marketplace note that the system also facilitated in error the November 25, 2015 cancellation notice effective December 1, 2015, after you provided their Social Security numbers. It also appears that this was done in error since your income had already been verified as accurate by the Marketplace on November 20, 2015. Accordingly and to bring the relevant notices in line with this decision:

The November 22, 2015 notice of eligibility redetermination is AFFIRMED in part and MODIFIED in part to state that your children were eligible for Medicaid without condition effective October 1, 2015, not November 1, 2015.

The November 22, 2015 enrollment notice is MODIFIED to state the enrollment start date of your children's MMC plan is December 1, 2015.

The November 24, 2015 notice of eligibility redetermination is MODIFIED to state that your children have continuous Medicaid coverage until September 30, 2016, not October 31, 2016.

The November 25, 2015 notices of enrollment and cancellation are RESCINDED.

Decision

The October 28, 2015 notices of eligibility determination and enrollment are AFFIRMED.

The November 21, 2015 notice of eligibility redetermination is AFFIRMED.

The November 22, 2015 notice of eligibility redetermination is AFFIRMED in part and MODIFIED in part to state that your children were eligible for Medicaid without condition effective October 1, 2015, not November 1, 2015.

The November 22, 2015 enrollment notice is MODIFIED to state the enrollment start date of your children's MMC plan is December 1, 2015.

The November 24, 2015 notice of eligibility redetermination is MODIFIED to state that your children have continuous Medicaid coverage until September 30, 2016, not October 31, 2016.

The November 25, 2015 notices of enrollment and cancellation are RESCINDED.

Effective Date of this Decision: February 12, 2016

How this Decision Affects Your Eligibility

Your child remain eligible for Medicaid, effective October 1, 2015 and, at present they are entitled to 12 months of Medicaid continuous coverage up to September 30, 2016.

You will need to update your Marketplace account between August 16, 2016 and September 15, 2016 so that your children's eligibility can be redetermined for the upcoming annual renewal period.

Your children do not qualify for retroactive Medicaid coverage in September 2015 because your monthly income was over the maximum allowable income limit.

The Marketplace will change your children's enrollment start date with CDPHP, their MMC plan, to be made effective December 1, 2015 and inform you accordingly.

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.

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If You Have Questions about this Decision (Customer Service Resources):

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Summary

The October 28, 2015 notices of eligibility determination and enrollment are **AFFIRMED**.

The November 21, 2015 notice of eligibility redetermination is **AFFIRMED**.

The November 22, 2015 notice of eligibility redetermination is **AFFIRMED** in part and **MODIFIED** in part to state that your children were eligible for Medicaid without condition effective October 1, 2015, not November 1, 2015.

The November 22, 2015 enrollment notice is **MODIFIED** to state the enrollment start date of your children's MMC plan is December 1, 2015.

The November 24, 2015 notice of eligibility redetermination is **MODIFIED** to state that your children have continuous Medicaid coverage until September 30, 2016, not October 31, 2016.

The November 25, 2015 notices of enrollment and cancellation are **RESCINDED**.

Your child remain eligible for Medicaid, effective October 1, 2015 and, at present they are entitled to 12 months of Medicaid continuous coverage up to September 30, 2016.

You will need to update your Marketplace account between August 16, 2016 and September 15, 2016 so that your children's eligibility can be redetermined for the upcoming annual renewal period.

Your children do not qualify for retroactive Medicaid coverage in September 2015 because your monthly income was over the maximum allowable income limit.

The Marketplace will change your children's enrollment start date with CDPHP, their MMC plan, to be made effective December 1, 2015 and inform you accordingly.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

