



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

Notice of Decision

Decision Date: May 6, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005400

[REDACTED]

Dear [REDACTED],

On February 8, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's November 24, 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 Account ID 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 Date: May 6, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005400

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Issue

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

Did NY State of Health (NYSOH) properly find that your daughter was not eligible for retroactive Medicaid coverage for August 2015?

Procedural History

On July 16, 2015, NYSOH issued an eligibility determination notice stating that you, individually, were eligible to receive \$0.00 per month in advance payments of the premium tax credit effective August 1, 2015. This was based upon your reported annual household income of \$50,000.00.

Your account was next updated on September 15, 2015, and your newborn daughter was added to the account.

On September 16, 2015, NYSOH issued an eligibility determination notice stating, in pertinent part, that your child was eligible to enroll in coverage through Child Health Plus for a cost of \$15.00 per month, effective October 1, 2015, based on expected annual household income of \$50,000.00.

On September 19, 2015, NYSOH issued an enrollment notice confirming your child's enrollment in a Child Health Plus with a premium responsibility of \$15.00 per month with a start date as early as November 1, 2015, after the first month's premium payment was made.

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Your account was modified three times on September 29, 2015, to significantly lower your expected annual household income.

On September 30, 2015, NYSOH issued a notice stating that more income documentation was needed before a new determination could be made on your newest application, because your reported income did not match what was obtained from federal and state data sources.

Your account was updated on October 16, 2015 to increase your expected annual household earnings.

On October 21, 2015, NYSOH issued an eligibility determination notice stating that your child was eligible for Medicaid effective October 1, 2015, based on your reported expected annual household income of \$44,640.00.

Also on October 21, 2015, NYSOH issued a notice stating that more income information was needed to determine whether your daughter was eligible for retroactive Medicaid coverage for August and September 2015. You were directed to produce this proof of income by November 4, 2015.

On October 29, 2015, an enrollment confirmation notice was issued confirming your child's enrollment in Medicaid with a plan start date of December 1, 2015.

On November 24, 2015, NYSOH issued an eligibility determination stating that your child was not eligible for retroactive coverage through Medicaid for August 2015. The determination stated that this eligibility was made because monthly income of \$4,455.74 was over the allowable monthly income limit of \$3,734.00.

On December 2, 2015, you contacted NYSOH's Account Review Unit and appealed the November 24, 2015 denial of retroactive Medicaid coverage for your daughter for August 2015.

On February 8, 2016, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

- 1) You currently reside in a three-person household.
- 2) Your application reflects that you will be filing your 2015 taxes as married filing jointly, and that you will be claiming your newborn child as a dependent on your tax return.

- 3) You testified that you are seeking insurance for your newborn child under Medicaid for the month of August, 2015.
- 4) The record reflects your child was born on August 19, 2015.
- 5) On October 21, 2015, NYSOH issued an eligibility determination notice finding your child eligible for Medicaid effective October 1, 2015, based upon your attested household income of \$44,640.00.
- 6) NYSOH issued an eligibility determination on November 24, 2015, finding your child not eligible for retroactive coverage through Medicaid for August 2015. This determination stated that your child was denied Medicaid coverage because the determined monthly income of \$4,455.74 was over the allowable monthly income limit of \$3,734.00.
- 7) You provided income documentation to NYSOH (document number U153084107456), which was verified on November 23, 2015.
- 8) The documentation consisted of eight pages. The total household income for the month of August 2015 was determined by NYSOH to be \$4,455.74.
- 9) Your spouse's income for August 2015, when tips are included, is documented by checks dated August 7, 2015; August 14, 2015; August 21, 2015; and August 28, 2015. These checks show income earned during the periods documented on those checks, when tips are included, of \$618.08, \$499.68, \$850.14, and \$163.45.
- 10) Your income for the month of August 2015 is reflected in checks dated August 6, 2015 in the gross amount of \$1,160.25 and on August 20, 2015 in the amount of \$1,164.13.
- 11) You testified that the income documentation you provided to NYSOH is an accurate reflection of the income you and your spouse received in the month of August, 2015.

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 NYSOH 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

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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 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); NY Social Services Law § 366(1)(b)).

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).

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).

Household Composition

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).

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 annually for a three-person household or \$1,675.00 per month (80 Federal Register 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)).

Medicaid Effective 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; NY Social Services Law §364-j(1)(c); 18 NYCRR 360-10.3(h)).

Medicaid Retro-active Coverage

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)).

Legal Analysis

The issue under review is whether NYSOH properly found that your newborn child was not eligible for retroactive Medicaid coverage for August 2015.

On October 21, 2015, NYSOH issued an eligibility determination notice finding your child eligible for Medicaid effective October 1, 2015, based upon your attested household income of \$44,640.00.

NYSOH issued an eligibility determination on November 24, 2015, finding your child not eligible for Medicaid for August of 2015. This determination stated that your child was denied Medicaid coverage because the determined monthly income of \$4,455.74 was over the allowable monthly income limit of \$3,734.00. You appealed this determination.

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 he or she would have been eligible for Medicaid in those three months had an application been submitted at that time.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. Monthly income is all income that is received in the calendar month, regardless of when that income was actually earned.

To be eligible for Medicaid in August, 2015, you would have needed to meet the non-financial criteria and have an income no greater than 223% of the 2015 federal poverty level, which is \$3,734.00 per month.

When calculating family size for Medicaid purposes, the household size of either a pregnant woman or a person who is in the family of a pregnant woman includes

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not only the pregnant woman but also the number of children she expects to deliver. On the date of your NYSOH application, you were pregnant. Consequently, NYSOH determined your child's eligibility for Medicaid using a three-person household.

You provided income documentation to NYSOH that was verified on November 23, 2015. When the tips documented on your husband's paystubs are included, your husband's income for August 2015 is the sum of \$618.08, \$499.68, \$850.14, and \$163.45.

Your income for the month of August 2015, as documented in your two paystubs, is the sum of \$1,160.25 and \$1,164.13.

The result is a total combined income of \$4,455.73 that you and your spouse received for the month of August, 2015.

You testified at the hearing that the income verification documents you sent in to NYSOH were an accurate representation of the income you received during the month of August, 2015.

The record indicates that you and your spouse earned \$4,455.73 in the month of August, 2015. Since your income of \$4,455.73 was more than the \$3,734.00 per month Medicaid limit for August, 2015, NYSOH properly determined that your child was not eligible for retroactive coverage through Medicaid for August 2015.

Decision

The November 24, 2015 eligibility determination was correct and is AFFIRMED.

Effective Date of this Decision: May 6, 2016

How this Decision Affects Your Eligibility

Your child remains ineligible for retroactive coverage through Medicaid for August 2015.

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.

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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 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 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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- By fax: 1-855-900-5557

Summary

The November 24, 2015 eligibility determination was correct and is AFFIRMED.

Your child remains ineligible for retroactive coverage through Medicaid for August 2015.

Legal Authority

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A Copy of this Decision Has Been Provided To:

