



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

Notice of Decision

Decision Date: June 15, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005568

[REDACTED]

Dear [REDACTED],

On February 26, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's December 10, 2015, December 15, 2015, December 16, 2015, January 8, 2016, January 13, 2016, January 14, 2016, and February 2, 2016 eligibility determination 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 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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Issues

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

Did NY State of Health (NYSOH) properly determine that your child was eligible for Medicaid effective December 1, 2015?

Did NYSOH properly determine that your child was no longer eligible for Medicaid, but would continue to receive Medicaid coverage until November 30, 2016?

Procedural History

On January 21, 2015, NYSOH received your application for your child's health insurance.

On January 22, 2015, the NYSOH issued an eligibility determination notice stating that your daughter was eligible for Medicaid effective January 1, 2015. This was because your household income of \$30,000.00 was at or below the allowable income limit for that program.

On May 7, 2015, an eligibility determination was issued finding your child eligible for Medicaid effective May 1, 2015. This was because your household income of \$32,040.00 was at or below the allowable income limit for that program.

Also on May 7, 2015, an enrollment confirmation notice was issued finding your daughter's coverage through Medicaid would begin May 1, 2015.

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Also on May 7, 2015, a disenrollment notice was issued ending your child's coverage with her Medicaid Managed Care plan effective May 31, 2015.

On December 9, 2015, December 14, 2015, and December 15, 2015, NYSOH received your updated applications for financial assistance with your child's health coverage.

On December 10, 2015, an eligibility determination notice was issued finding your child eligible for Medicaid effective December 1, 2015. This was because your reported household income of \$28,850.00 was at or below the allowable income limit for that program.

On December 15, 2015, an eligibility determination notice was issued finding your child eligible for Medicaid effective January 1, 2016. This determination was based upon your reported household income of \$28,850.00.

Also on December 15, 2015, you contacted NYSOH's Account Review Unit and requested an appeal of the December 15, 2015 eligibility determination insofar as your child's Medicaid coverage was continued.

On December 16, 2015, an eligibility determination notice was issued finding your child eligible for Medicaid effective January 1, 2016. This determination was issued because your household income of \$32,040.00 was at or below the income limit for that program.

On January 1, 2016, an enrollment confirmation notice was issued confirming your child's enrollment in a Medicaid Managed care plan effective February 1, 2016.

On January 13, 2016, an eligibility determination notice was issued finding your child no longer eligible for Medicaid; however, her coverage would continue until November 30, 2016, because certain individuals will remain enrolled in Medicaid for 12 months after a determination that they were eligible.

On January 14, 2016, an eligibility determination notice was issued finding your child no longer eligible for Medicaid; however, her coverage would continue until November 30, 2016, because certain individuals will remain enrolled in Medicaid for 12 months after a determination that they were eligible.

On February 26, 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

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

- 1) You child was born on [REDACTED].
- 2) Your child was initially found eligible for Medicaid effective May 1, 2015.
- 3) You testified that you expected to file your 2015 taxes with a tax filing status of married filing jointly. You would claim your daughter as a dependent on that tax return.
- 4) Your applications submitted on December 9, 2015 and December 14, 2015 listed annual household earnings of \$28,850.00 in a household of three people. Your daughter was over one year old at the time of each application.
- 5) The applications that were submitted on December 15, 2015 listed annual household income of \$32,040.00, consisting of income you earn from your employment. You testified that this amount was correct at the time but has since been closer to \$27,090.00.
- 6) At the time of your December 15, 2015 application, your child was still one year old.
- 7) You updated your application twice on January 7, 2016 to reflect annual household earnings of \$33,480.00 and \$32,040.00.
- 8) Your application was updated by a NYSOH representative multiple times on January 12, 2016, the last two times to reflect annual earnings of \$32,160.00.
- 9) You updated your account on January 13, 2016 and January 29, 2016 to reflect annual household earnings of \$33,480.00.
- 10) Your application states that you will not be taking any deductions on your 2016 tax return.
- 11) Your application states that you live in Kings County.
- 12) You testified that you would like your child to be eligible for Child Health Plus, and not Medicaid.
- 13) You testified your child's doctor only takes Child Health Plus, and not Medicaid.

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 at least one year of age but younger than nineteen 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 154% of the FPL for the applicable family size (42 CFR § 435.118(c); New York Department of Social Services 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 was \$20,090.00 for a three-person household (80 Federal Register 3236, 3237).

Continuous Coverage

Most individuals determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage even if they lose Medicaid eligibility because of any changes or updates they make to their NYSOH account. For example, even if income increases above the Medicaid limit allowed for the household size, the insured will remain covered under Medicaid for a twelve 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 determination or the date of any subsequent Medicaid eligibility determination based on modified adjusted gross income (NY Social Services Law § 366(4)(c)).

An individual will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, lack of state residence, failing to provide a valid social security number, or having third party health insurance (NY Social Services Law § 366(4)(c)).

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 first issue under review is whether NYSOH properly determined that your child was eligible for Medicaid effective December 1, 2015, and again on January 1, 2016 and February 1, 2016.

Your child was initially found eligible for Medicaid effective May 1, 2015. The eligibility determinations from that period of time are not currently under review. You testified that you would like your child to be eligible for Child Health Plus, and not Medicaid, because your child's doctor only accepts Child Health Plus.

You are in a three-person household. According to the record, you expect to file your 2015 and 2016 tax returns as married filing jointly and claim your one child as a dependent.

At the time of all the relevant application, your child was over one year old, but under 19, and the applicable FPL for a family of three was \$20,090.00.

Medicaid can be provided through NYSOH to children between the ages of one and 19 who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 154% of the FPL for the applicable family size. Therefore, your child would have been eligible for Medicaid coverage if your household earnings were at or below 154% of \$20,090.00, or \$30,135.00.

The December 10, 2015 and December 15, 2015 eligibility determinations were based on an annual household income of \$28,850.00. Therefore both determinations properly found that your child was eligible for Medicaid.

However, the applications submitted on or after December 15, 2015 listed annual income over \$30,135.00.

The notices of eligibility determination issued on December 16, 2015 improperly found your child eligible for Medicaid, because your household income was over the allowable limit. However, under New York State law, once a person is eligible for Medicaid, that eligibility continues for 12 months, even if the household income rises above 138% of the FPL. Most individuals determined eligible for Medicaid are guaranteed twelve months of Medicaid coverage even if they lose Medicaid eligibility because of any changes or updates they make to their NYSOH account. This provision is called "continuous coverage."

Therefore, the eligibility determination notice issued on December 16, 2015, should have found that your child was no longer eligible for Medicaid, but that her coverage would continue for 12 months after the most recent eligibility determination date, or November 30, 2016.

That determination notice is MODIFIED to reflect that your child remains eligible for Medicaid coverage under continuous coverage until November 30, 2016.

On January 13 and 14, 2016, an eligibility determination notice was issued finding your child no longer eligible for Medicaid, however her coverage would continue until November 30, 2016. This was because of your stated income increased to \$33,480.00.

In New York State, an individual will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, lack of state residence, failing to provide a valid social security number, or having third party health insurance.

Since none of the above occurred and your daughter was again found eligible for Medicaid effective December 1, 2015, she would continue to receive her Medicaid coverage uninterrupted until November 30, 2016.

Decision

The December 10, 2015 and December 15, 2015 eligibility determination notices are AFFIRMED.

The December 16, 2015 eligibility determination notice is MODIFIED to reflect that your child is no longer eligible for Medicaid, but that her coverage under Medicaid would continue until November 30, 2016.

The January 8, 2016, January 13, 2016, January 14, 2016, and February 2, 2016 eligibility determination notices are AFFIRMED.

Effective Date of this Decision: June 15, 2016

How this Decision Affects Your Eligibility

Your child's Medicaid coverage, which began on May 1, 2015, continues until November 30, 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.

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 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:
NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The December 10, 2015 and December 15, 2015 eligibility determination notices are AFFIRMED.

The December 16, 2015 eligibility determination notice is MODIFIED to reflect that your child is no longer eligible for Medicaid, but that her coverage under Medicaid would continue until November 30, 2016.

The January 8, 2016, January 13, 2016, January 14, 2016, and February 2, 2016 eligibility determination notices are AFFIRMED.

Your child's Medicaid coverage, which began on May 1, 2015, continues until November 30, 2016.

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A Copy of this Decision Has Been Provided To:

