



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

Notice of Decision

Decision Date: April 27, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000005602

[REDACTED]

Dear [REDACTED],

On March 1, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 18, 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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Issues

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

Did the Marketplace properly determine that your children were eligible for Medicaid, effective December 1, 2015?

Did the Marketplace properly determine that you individually, were conditionally eligible for Medicaid, effective December 1, 2015?

Procedural History

On December 17, 2015, the Marketplace received your application for health insurance.

That same day, the Marketplace issued a preliminary eligibility determination notice stating that your children were eligible for Medicaid, and you were temporarily eligible for Medicaid, effective December 1, 2015.

Also on December 17, 2015, you spoke to the Marketplace's Account Review Unit and appealed that determination insofar as your children were eligible for Medicaid, and not eligible for Child Health Plus.

On December 18, 2015, the Marketplace issued an eligibility determination that stated you were conditionally eligible for Medicaid, effective December 1, 2015, pending confirmation of information about an absent parent, and pending documentation of your Third Party Health Insurance (TPHI) benefits.

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The December 18, 2015 eligibility determination also stated that your children were eligible for Medicaid, effective December 1, 2015, and that the next step was to pick a health plan for each of them.

On December 21, 2015, the Marketplace issued a notice stating that the Marketplace still needed information regarding TPHI and an absent parent to confirm your eligibility.

The same notice also stated that documentation had not been received to confirm TPHI for your two children, and that the documentation that was submitted was insufficient. The notice requested that you submit more information regarding TPHI for yourself and your two children.

On December 28, 2015, and again on January 16, 2016, you uploaded a copy of the front and back of a TPHI card which listed you and your two children. The Marketplace verified this document on December 28, 2015 and re-ran your eligibility.

On December 29, 2015, the Marketplace issued an eligibility determination stating that you were conditionally eligible for Medicaid, effective December 1, 2015, pending information about an absent parent. The same determination stated that your children were eligible for Medicaid, effective December 1, 2015.

On December 30, 2015, the Marketplace issued an enrollment confirmation notice which stated that you were enrolled in Medicaid and no further action was required. The same notice stated that your children were enrolled in Medicaid, but that you needed to pick a health plan for them.

On January 14, 2016, your application was updated several times.

On January 15, 2016, the Marketplace issued an eligibility determination based on the last application on January 14, 2016 which stated that you were conditionally eligible for Medicaid, effective January 1, 2016, and your children were eligible for Medicaid.

That same notice stated that the Marketplace's records showed that you and your children had other full benefit health insurance, and therefore none of you could enroll in a Medicaid Managed Care (MMC) plan.

Also on January 15, 2016, the Marketplace issued an enrollment confirmation notice which stated that you and your children were enrolled in Medicaid, and that no further action was required because the type of Medicaid you were enrolled in does not require/allow you, or your children, to enroll in a health plan. This same notice requested that you submit benefit information related to your TPHI by January 29, 2016.

On January 22, 2016, the Marketplace issued an eligibility determination stating that you and your children were eligible for Medicaid, effective January 1, 2016. The notice also stated that the Marketplace's records showed that you and your children had full benefit health insurance, and were therefore not eligible to enroll in a MMC plan.

That same day, the Marketplace issued an enrollment confirmation notice that stated that you and your children were enrolled in Medicaid, and that no further action was required because the type of Medicaid you were enrolled in does not require/allow you to enroll in a health plan.

On February 19, 2016, you uploaded a letter to your Marketplace account from CDPHP entitled "Termination Notice", with the same Identification Number and Group Number as the TPHI benefit card you uploaded to your account, addressed to your former spouse. The letter states "You coverage with Capital District Physician's Health Plan, Inc. was terminated on the date noted below." The next line reads "Termination Date: 01/31/2016."

On March 1, 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 expected to file your 2015 taxes with a tax filing status of head of household with qualifying individual. You will claim your two children as dependents on that tax return.
- 2) The application that was submitted on December 17, 2015 listed annual household income of \$27,341.00 from self-employment income. You testified that this amount was correct.
- 3) At the time of your December 17, 2015 application, your children were ten and nine years old.
- 4) You testified that you would like your children to be eligible for Child Health Plus and not Medicaid because their current pediatrician does not accept straight Medicaid. You further testified that what you are seeking is for them to be enrolled in some kind of health plan, not straight Medicaid.
- 5) You also testified that your divorce agreement, which is being finalized, states that you will provide you children with Child Health Plus coverage.

- 6) You testified that you would also like to be able to enroll in a health plan instead of having straight Medicaid coverage.
- 7) The record reflects that you and your children had TPHI coverage at the time of your application.
- 8) The record further reflects that you uploaded a document – document [REDACTED] – to your Marketplace account on February 19, 2016, which states that coverage was terminated effective January 31, 2016 for the same TPHI identification number which was listed on the insurance card you uploaded copies of on December 28, 2015 and January 16, 2016.
- 9) The record reflects that this document has not yet been verified by the Marketplace.
- 10) Your application states that you live in Rensselaer County.

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 19 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 Fed. Reg. 3236, 3237).

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)).

Medicaid for Adults between the Ages of 19 and 65

Medicaid through the Marketplace 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 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); N.Y. Soc. Serv. Law § 366(1)(b)).

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 for a three-person household (80 Fed. Reg. 3236, 3237).

Legal Analysis

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

According to the record, you expect to file your taxes as head of household with qualifying individual for the 2015 tax year and claim your two children as a dependent. Therefore, your children are in a three-person household.

On your December 17, 2015 application, you attested to an expected household income of \$27,341.00. The application also stated that your children are nine and ten years old. The Marketplace relied upon this information.

Medicaid can be provided through the Marketplace to children between the ages of one and nineteen 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. Since \$27,341.00 is 136.09% of the 2015 FPL for a three-person household, the Marketplace properly found your children to be eligible for Medicaid, effective December 1, 2015.

You testified that you want your child enrolled in health coverage through Child Health Plus and not Medicaid. However, 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 December 18, 2015 eligibility determination, insofar as it found your children eligible for Medicaid, is **AFFIRMED**.

The second issue under review is whether the Marketplace properly determined that you were conditionally eligible for Medicaid, effective December 1, 2015.

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Medicaid can be provided to adults who meet the non-financial requirements and have a household modified adjusted gross income that is below 138% of the FPL for applicable budget period used to determine an individual's eligibility. Since \$27,341.00 is 136.09% of the 2015 FPL for a three-person household, the Marketplace properly found you to be eligible for Medicaid, effective December 1, 2015. Therefore, the December 18, 2015 eligibility determination, insofar as it found you conditionally eligible for Medicaid effective December 1, 2015, is AFFIRMED.

You testified at the hearing that you are looking for enrollment for yourself and your children in some sort of health plan, and not straight Medicaid. The Marketplace determined that you and your children were not eligible to enroll in a MMC plan because you had TPHI, as confirmed by the copy of the insurance benefit card that you uploaded to your account

However, you have since uploaded a document to your Marketplace account ([REDACTED]) which indicates that you and your children no longer had TPHI coverage as of January 31, 2016. There is nothing in the record to indicate that the Marketplace has re-determined your eligibility or your children's eligibility to enroll in MMC plan since you uploaded this document.

Accordingly, your case is RETURNED to the Marketplace for a determination as to whether you and your children are now eligible for enroll in a MMC plan, effective January 31, 2016, based on the purported termination of Third Party Health Insurance.

Please be advised that the Marketplace may request that you provide additional information or documentation in order for a new eligibility determination to be issued

Decision

The December 18, 2015 eligibility determination notice is AFFIRMED, insofar as it found your children eligible for Medicaid, effective December 1, 2015.

The December 18, 2015 eligibility determination notice is AFFIRMED insofar as it found you conditionally eligible for Medicaid, effective December 1, 2015.

Your case is RETURNED to the Marketplace for a new determination as to your eligibility and your children's eligibility to enroll in a MMC plan, effective January 31, 2016, based on the purported termination of Third Party Health Insurance.

Effective Date of this Decision: April 27, 2016

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How this Decision Affects Your Eligibility

You and your children remain eligible for Medicaid.

Your case is being sent back to the Marketplace to determine whether you and your children can enroll in a MMC plan; however, you may be asked by the Marketplace to provide additional information and/or documentation so that a new determination can be made regarding your eligibility, and your children's eligibility, to enroll in a MMC plan.

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 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

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Summary

The December 18, 2015 eligibility determination notice is AFFIRMED, insofar as it found your children eligible for Medicaid, effective December 1, 2015.

The December 18, 2015 eligibility determination notice is AFFIRMED insofar as it found you conditionally eligible for Medicaid, effective December 1, 2015.

Your case is RETURNED to the Marketplace for a new determination as to your eligibility and your children's eligibility to enroll in a MMC plan, effective January 31, 2016, based on the purported termination of Third Party Health Insurance.

You and your children remain eligible for Medicaid.

Your case is being sent back to the Marketplace to determine whether you and your children can enroll in a MMC plan.

Legal Authority

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

A Copy of this Decision Has Been Provided To:

