



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

Notice of Decision

Decision Date: November 25, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008868

[REDACTED]

Dear [REDACTED]

On October 19, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's April 14, 2016 eligibility determination and April 14, 2016 enrollment notice.

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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Decision

Decision Date: November 25, 2016

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000008868

[REDACTED]

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 daughter was no longer eligible for Medicaid, but would continue to receive Medicaid coverage until October 31, 2016?

Did NYSOH properly determine that your daughter was prohibited from enrolling in a Medicaid Managed Care plan?

Procedural History

On November 9, 2015, NYSOH received several applications for health insurance.

On November 10, 2015, NYSOH issued an eligibility determination based on the information contained in the last application received on November 9, 2015. The notice stated that your daughter was eligible for Medicaid, effective November 1, 2015. The notice further stated that “[y]ou may continue to access your benefits through fee-for-service Medicaid.”

Between December 3, 2015 and December 8, 2015, NYSOH received several revised applications. In each case, an eligibility determination notice was issued based on the respective application stating that your daughter was either fully or conditionally eligible for Medicaid at that time. The notices further stated that because your daughter was enrolled in comprehensive Third Party Health

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Insurance (TPHI) to assist in meeting her healthcare needs, she could not be enrolled in a Medicaid Managed Care (MMC) plan.

On February 2, 2016, NYSOH received an updated application for health insurance.

On February 3, 2016, NYSOH issued an eligibility redetermination notice stating that your daughter was no longer eligible for Medicaid. However, her Medicaid coverage would continue until October 31, 2016 because certain individuals determined eligible for Medicaid remain eligible for benefits for 12 continuous months from the date that they were determined eligible. This eligibility was effective as of March 1, 2016.

On February 3, 2016, NYSOH issued an enrollment notice stating that your daughter was not eligible to select an MMC for coverage because the type of Medicaid your daughter was eligible for does not permit her to enroll in a health plan.

On February 4, 2016, NYSOH received a letter from UnitedHealthcare confirming that your daughter's TPHI had terminated effective December 31, 2015.

On April 13, 2016, NYSOH received two updates to your application.

On April 14, 2016, NYSOH issued an eligibility redetermination notice based on the information contained in the last application received on April 13, 2016. The notice stated that your daughter was no longer eligible for Medicaid. However, her Medicaid coverage would continue until October 31, 2016 because certain individuals determined eligible for Medicaid remain eligible for benefits for 12 continuous months from the date that they were determined eligible. This eligibility determination was effective May 1, 2016.

You contacted NYSOH's Account Review Unit and requested an appeal of that eligibility determination insofar as your daughter's enrollment in Medicaid would continue until October 31, 2016, and on your inability to select an MMC plan for your daughter's coverage during her Medicaid eligibility.

On October 19, 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 supports the following findings of fact:

- 1) The record reflects that you expect to file your 2016 federal income tax return as married filing jointly, and will claim your daughter as your sole dependent.
- 2) Your daughter was born on [REDACTED].
- 3) In all applications submitted to NYSOH from the last application submitted on November 9, 2015 until April 13, 2016, you attested to an expected annual household income of \$32,629.44. You testified that at the time you submitted your applications, this income was an accurate reflection of your expected income for the 2016 tax year based on your earnings from your business, [REDACTED], in addition to the sum of your income from your taxable interest, qualified dividends and capital gains.
- 4) You testified that you, your spouse, and your daughter had been covered under your spouse's employer-sponsored insurance plan until December 31, 2015.
- 5) On February 4, 2016, you provided NYSOH with a letter issued by UnitedHealthcare, dated January 27, 2016, confirming that your daughter's TPHI had terminated effective December 31, 2015.
- 6) You testified that you were seeking for your daughter to be found eligible for Child Health Plus (CHP) so she could selected a health plan under that program or, in the alternative, to be found eligible to select an MMC plan since her doctor does not accept Medicaid Fee-For-Service.

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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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 November 9, 2015 application, that was the 2015 FPL, which is \$20,090.00 for a three-person household (80 Federal Register 3236, 3237). On the date of your February 2, 2016 and April 13, 2016 applications, that was the 2016 FPL, which is \$20,160.00 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). Family size equals the number of individuals for whom the taxpayer is allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

Medicaid-eligible children under the age of 19 are provided with 12 months of continuous coverage, even if the household's income increases above eligibility levels during that period (NY Social Services Law § 366(4)(b)(3)(i)).

Third Party Health Insurance

An individual will be enrolled or remain in a Medicaid Managed Care 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)).

Legal Analysis

The first issue under review is whether NYSOH properly determined that your daughter was no longer eligible for Medicaid, but would continue to receive Medicaid coverage until October 31, 2016.

On November 10, 2015, NYSOH issued an eligibility determination notice stating that your daughter was eligible for Medicaid as of November 1, 2015. That determination has not been appealed and is not under review here.

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Under New York State law, once a person is eligible for Medicaid, that eligibility generally continues for 12 months, even if the household income rises above the applicable FPL level (in the case of your newborn, as of the November 9, 2015 application date, 223%). This provision is called “continuous coverage.”

The record reflects that after having added your daughter to your NYSOH on November 9, 2015, there have been no fluctuations in income or other life changing event that would have been a basis for her Medicaid coverage to have been terminated in favor for another health insurance program.

The record also reflects that when you updated your application on February 2, 2016 and April 13, 2016, your daughter was then a one year old, and would be eligible for Medicaid only if the household income did not exceed 154% of the FPL. However, since your daughter was properly determined eligible for Medicaid based on the application you submitted on November 9, 2015, she remained eligible for Medicaid for 12 continuous months, regardless of any increases in your household income or fluctuations in your daughter’s eligibility for Medicaid based on her age.

Therefore, the April 14, 2016 eligibility determination properly stating that your daughter was no longer eligible for Medicaid but would remain enrolled in Medicaid until October 31, 2016 was correct, and is AFFIRMED.

The second issue under review is whether NYSOH properly determined that your daughter was prohibited from enrolling in an MMC plan.

On November 9, 2015, NYSOH received your updated application for financial assistance with your health insurance.

Based on this application, your daughter was found eligible to receive Medicaid but unable to select an MMC plan because NYSOH records reflected that she was enrolled in TPHI.

The record reflects that your daughter was enrolled in TPHI until at least December 31, 2015; however, you did not provide proof of termination of that coverage until February 4, 2016.

Generally, the date on which a MMC plan can take effect depends on the day a person selects the plan for enrollment.

A plan that is selected from the first day to and including the fifteenth day of a month will go into effect on the first day of the following month. A plan that is selected on or after the sixteenth day of the month will go into effect on the first day of the second following month.

You did not provide proof that your daughter was no longer enrolled in TPHI until February 4, 2016. Therefore, your NYSOH account did not contain sufficient information to render your daughter eligible to enroll in a MMC plan until that date. Had the documentation you submitted on February 4, 2016 been timely reviewed, your daughter could have been enrolled in an MMC plan effective March 1, 2016.

However, you were unable to select UnitedHealthcare as your daughter's MMC plan until October 21, 2016, with such coverage beginning on December 1, 2016.

Therefore, the April 14, 2016 enrollment notice is MODIFIED to state that your daughter's MMC plan coverage under UnitedHealthcare began effective March 1, 2016, based on the reasonable inference that you would have selected UnitedHealthcare as your daughter's MMC plan as of February 4, 2016.

Decision

The April 14, 2016 eligibility determination notice is AFFIRMED insofar as your daughter was found eligible for Medicaid under "continuous coverage" until October 31, 2016.

The April 14, 2016 enrollment notice is MODIFIED to state that your daughter's MMC plan coverage under UnitedHealthcare began effective March 1, 2016, based on the reasonable inference that you would have selected UnitedHealthcare as your daughter's MMC plan as of February 4, 2016.

Effective Date of this Decision: November 25, 2016

How this Decision Affects Your Eligibility

Your daughter's was eligible for Medicaid Fee-For-Service coverage between November 1, 2015 and February 29, 2016.

Your daughter's MMC plan coverage with UnitedHealthcare began 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.

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

Summary

The April 14, 2016 eligibility determination notice is **AFFIRMED** insofar as your daughter was found eligible for Medicaid under “continuous coverage” until October 31, 2016.

The April 14, 2016 enrollment notice is **MODIFIED** to state that your daughter’s MMC plan coverage under UnitedHealthcare began effective March 1, 2016, based on the reasonable inference that you would have selected UnitedHealthcare as your daughter’s MMC plan as of February 4, 2016.

Your daughter’s was eligible for Medicaid Fee-For-Service coverage between November 1, 2015 and February 29, 2016.

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Your daughter's MMC plan coverage with UnitedHealthcare began effective March 1, 2016.

Legal Authority

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A Copy of this Decision Has Been Provided To:

