



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

Notice of Decision

Decision Date: January 31, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010697

[REDACTED]

Dear [REDACTED],

On December 27, 2016, you appeared by telephone at a hearing on your appeal of NY State of Health's June 26, 2016, eligibility and enrollment notices regarding your newborn child.

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).

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: January 31, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000010697

[REDACTED]

Issues

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

Did New York State of Health (NYSOH) fail to enroll your newborn child in Medicaid fee-for-service for the month of July 2016 as of your appeal request?

Did NYSOH properly enroll your newborn child in their Child Health Plus plan with a start date of August 1, 2016?

Procedural History

On May 5, 2016, NYSOH received your application for health insurance.

On May 6, 2016, NYSOH issued a notice of eligibility determination that stated, in relevant part, you were conditionally eligible for Medicaid, effective May 1, 2016. The notice instructed you to provide additional documentation to confirm your household income and benefit information for third party health insurance before May 20, 2016, to confirm your eligibility.

On May 12, 2016 and May 13, 2016, income documentation was uploaded to your NYSOH account ([REDACTED]).

On May 17, 2016, NYSOH issued a notice of eligibility redetermination that stated, in relevant part, that you were newly eligible to purchase a qualified health plan (QHP) at full cost through NYSOH effective July 1, 2016. The notice stated that you were not eligible for Medicaid because the household income you provided was over the allowable income limit.

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Also on May 17, 2016, NYSOH issued a disenrollment notice stating that your Medicaid fee-for-service coverage would be discontinued June 30, 2016.

On June 25, 2016, your newborn child was added to your account and your application was updated.

On June 26, 2016, NYSOH issued an eligibility determination notice, in relevant notice, that your newborn was eligible for Child Health Plus, with a monthly premium of \$30.00, for a limited time effective August 1, 2016. The notice directed you to submit proof of your child's citizenship status and Social Security number by September 23, 2016, to confirm their eligibility.

Also on June 26, 2016, NYSOH issued an enrollment notice confirming, in relevant part, that as of June 25, 2016, your newborn child was enrolled in a Child Health Plus plan with an enrollment start date of August 1, 2016.

On July 5, 2016, you spoke with NYSOH's Account Review Unit and requested an appeal insofar as the enrollment start date of your newborn child's health insurance coverage.

On December 27, 2016, you had a telephone hearing with a Hearing Officer from the 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 testified that you are seeking health insurance coverage, for your newborn child, for the month of July 2016.
- 2) You testified that you contacted NYSOH before your child's birth and was told by representatives of NYSOH that your child would be enrolled in Medicaid coverage at birth and that coverage would continue for twelve months.
- 3) On May 6, 2016, NYSOH issued a notice of eligibility determination stating you were conditionally eligible for Medicaid, effective May 1, 2016. The notice instructed you to provide additional documentation to confirm your household income and benefit information for third party health insurance before May 20, 2016, to confirm your eligibility ([REDACTED]).
- 4) On May 12, 2016 and May 13, 2016, income documentation was uploaded to your NYSOH account ([REDACTED]).

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- 5) Based on the documentation submitted on May 12, 2016 and May 13, 2016, NYSOH determined you not eligible for Medicaid because your household income was over the income limit.
- 6) Your Medicaid fee-for-service coverage was discontinued June 30, 2016.
- 7) According to your NYSOH account and testimony, your newborn child was born on [REDACTED].
- 8) On June 25, 2016, your newborn child was added to your NYSOH account and enrolled in a Child Health Plus plan.
- 9) You testified that your child was hospitalized on [REDACTED] and [REDACTED].
- 10) You testified that on July 5, 2016, the hospital's billing department contacted you because they were unable to bill Medicaid for the medical services provided by the hospital.
- 11) You testified you have incurred approximately \$1,100.00 in medical expenses from your child's hospitalization.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

Applicable Law and Regulations

Medicaid

Medicaid can be provided through the Marketplace 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 FPL for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)), N.Y. Soc. Serv. Law § 366(1)(b)).

In New York, a pregnant woman is eligible for Medicaid at a household income of 223% of the federal poverty level (FPL) (42 CFR §435.116 (c)(2); NY Department of Health Administrative Directive 13 ADM-03).

“Family size” means the number of persons counted as members of an individual's household. The household of a taxpayer who expects to file a return,

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and does not expect to be claimed as a tax dependent by anyone else, consists of the taxpayer plus all people the taxpayer expects to claim as tax dependents (42 CFR § 435.603(f)(1)).

For purposes of Medicaid eligibility, the family size of a pregnant woman includes the pregnant woman and 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 2016 FPL, which is \$28,440.00 for a five-person household (81 Fed. Reg. 4036).

Presumptive Eligibility for Pregnant Women:

Pregnant women who are determined eligible for Medicaid based on preliminary information are presumptively eligible for Medicaid benefits. The presumptive eligibility period begins on the day that the determination is made. If an application for Medicaid is filed by the last day of the month following the month in which the determination of presumptive eligibility was made, the presumptive period ends on the day that NYSOH makes a determination of eligibility based on that application. If the application is not filed by the last day of the month following the month the determination of presumptive eligibility was made, the presumptive period ends on that day (42 CFR §435.1103(a); N.Y. Soc. Serv. Law § 364-i(6)(a),(b); 18 *NYCRR* § 360-3.7(d)).

Newborn Child – Effective Date of Coverage for Medicaid

NYSOH must provide Medicaid eligibility to a child born to a woman who has applied for, has been determined eligible and is receiving Medicaid on the date of the child's birth. The child is deemed to have applied and been found eligible for Medicaid on the date of birth and remains eligible for one year so long as the woman remains (or would remain if pregnant) eligible and the child is a member of the woman's household. This provision applies in instances where the labor and delivery services were furnished prior to the date of application and covered by Medicaid based on retroactive eligibility (42 CFR § 435.117(a); N.Y. Soc. Serv. Law § 366-g(3)).

Child Health Plus

“A State must specify a method for determining the effective date of eligibility for [Child Health Plus], which can be determined based on the date of application or through any other reasonable method that ensures coordinated transition of children between [Child Health Plus] and other insurance affordability programs

as family circumstances change and avoids gaps or overlaps in coverage” (42 CFR § 457.340(f)).

The State of New York has provided that a child’s period of eligibility for Child Health Plus begins on the first day of the month during which a child is eligible. A child will become eligible on the first day of the next month, if the application is received by the 15th of the month; applications received after the 15th day of the month will be processed for the first day of the second following month (see e.g. State Plan Amendment (SPA) NY-14-0005, approved February 3, 2015 and effective January 1, 2014).

Legal Analysis

The first issue under review is whether NYSOH failed to enroll your newborn child in Medicaid fee-for-service for the month of July 2016 as of your appeal request.

You were determined conditionally eligible for Medicaid effective May 1, 2016. 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 not only the pregnant woman but also the number of children she expects to deliver. On the date of your June 5, 2016 NYSOH application, you were married, had two children, and was pregnant with one child. Therefore, NYSOH determined your eligibility for Medicaid using a five-person household.

NYSOH found you “conditionally” eligible for Medicaid on May 6, 2016, because you were pregnant and had reported household income of \$60,300.01. Your eligibility for Medicaid was only temporary as of May 1, 2016 because you still needed to provide income documentation to confirm your household’s income and third party health insurance documentation.

On May 12, 2016 and May 13, 2016, income documentation was uploaded to your NYSOH account. Based on the documentation submitted on May 12, 2016 and May 13, 2016, NYSOH determined you not eligible for Medicaid because your household income was over the income limit. Therefore, your Medicaid fee-for-service coverage was discontinued June 30, 2016.

Notwithstanding, Medicaid coverage must be provided to a child born to a woman who has been determined eligible and is receiving Medicaid on the date of the child’s birth. The child is deemed to have applied and been found eligible for Medicaid on the date of birth and remains eligible for one year so long as the woman remains eligible and the child is a member of the woman’s household. The record reflects that your child was born on [REDACTED], at which time you were conditionally eligible for Medicaid. Therefore, your newborn child is deemed to have had Medicaid as of their date of birth, [REDACTED].

However, their eligibility only remained in effect as long as you remained eligible for Medicaid. Since you were determined to be no longer eligible for Medicaid as of June 30, 2016, your newborn's eligibility for Medicaid also should have ended as of that date. The case is RETURNED to NYSOH to ensure your newborn child was eligible for Medicaid fee-for-service from June 22, 2016 through June 30, 2016.

The second issue is whether NYSOH properly enrolled your newborn child in a Child Health Plus with a start date of August 1, 2016.

The record reflects that on June 25, 2016, your child was added to your account, and an application submitted on their behalf. The record further reflects that on June 25, 2016, your newborn child was enrolled into a plan, effective with an enrollment start date of August 1, 2016.

In New York State, if an application for insurance coverage is received before the 15th of the month, benefits are provided on the first day of the next month. If an application for insurance coverage is received through NYSOH after the 15th of the month, health plan benefits are provided on the first day of the second subsequent month.

Since your newborn child was enrolled in a Child Health Plus plan on June 25, 2016, their enrollment start date must be the first day of the second subsequent month; which is August 1, 2016.

Therefore, the June 26, 2016, enrollment notice is AFFIRMED.

Decision

Your case is RETURNED to NYSOH to ensure your child was enrolled in Medicaid fee-for-service from June 22, 2016 through June 30, 2016.

The June 26, 2016, enrollment notice is AFFIRMED.

Effective Date of this Decision: January 31, 2017

How this Decision Affects Your Eligibility

Your newborn child was eligible for Medicaid fee-for-service from June 22, 2016 through June 30, 2016.

Your newborn child was enrolled in a Child Health Plus plan with an enrollment start date of August 1, 2016.

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).

Eligibility determinations made after your appeal request will not be changed by this decision.

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.

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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P.O. Box 11729
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- By fax: 1-855-900-5557

Summary

Your case is RETURNED to NYSOH to ensure your child was enrolled in Medicaid fee-for-service from June 22, 2016 through June 30, 2016.

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The June 26, 2016, enrollment notice is AFFIRMED.

Your newborn child was eligible for Medicaid fee-for-service from June 22, 2016 through June 30, 2016.

Your newborn child was enrolled in a Child Health Plus plan with an enrollment start date of August 1, 2016.

Eligibility determinations made after your appeal request will not be changed by this decision.

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:

