



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

Notice of Decision

Decision Date: February 22, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011245

[REDACTED]

Dear [REDACTED],

On January 6, 2017, you appeared by telephone at a hearing on your appeal of NY State of Health's denial of your request for full Medicaid coverage for the month of June 2016.

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.

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STATE OF NEW YORK
DEPARTMENT OF HEALTH
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Decision

Decision Date: February 22, 2017

NY State of Health Account ID: [REDACTED]
Appeal Identification Number: AP000000011245



Issue

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

Did NY State of Health (NYSOH) properly determine that you were not eligible for full Medicaid coverage for the month of June 2016?

Did NYSOH properly determine that your newborn was not eligible for Medicaid effective June 1, 2016?

Procedural History

On April 11, 2016, you updated your application for health insurance.

On April 12, 2016, NYSOH issued an eligibility determination notice stating that you were conditionally eligible for Medicaid, effective April 1, 2016. The notice further stated that you must provide proof of your household income before April 26, 2016.

On April 25, 2016, you uploaded proof of your income, which included your spouse's 4 weekly paystubs, dated in March 2016 and April 2016, of which one's date could not be seen, and three of your weekly paystubs, dated April 2016, all of which were documents subsequently invalidated by NYSOH on April 26, 2016 (see Document [REDACTED]).

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On April 27, 2016, NYSOH issued a notice stating that additional information is required to confirm your eligibility for health insurance through NYSOH. The notice also stated that, although you submitted documentation to resolve the inconsistency, additional proof of income for you and your spouse was required.

On May 4, 2016, you uploaded the exact same proofs of your income that was uploaded on April 25, 2016, which were invalidated on May 6, 2016 (see Document [REDACTED]).

On May 9, 2016, NYSOH issued a notice stating that additional information was required to confirm your eligibility for health insurance through NYSOH. The notice also stated that, although you submitted documentation to resolve the inconsistency, additional proof of your income was required.

On May 26, 2016, you uploaded proofs of your income, which included 2 additional paystubs for your spouse dated in April 2016, and a letter from one of your employer's stating that your last day of employment was May 9, 2016, which documents were invalidated by NYSOH on May 31, 2016 (see Document [REDACTED]).

On June 2, 2016, NYSOH issued a notice stating that additional information was required to confirm your eligibility for health insurance through NYSOH. The notice also stated that, although you submitted documentation to resolve the inconsistency, additional proof of income for you and your spouse was required.

On June 7, 2016, you again uploaded proof of your income, which included 4 paystubs for your spouse, dated in May 2016, and a letter from one of your employer's stating that your last day of employment was May 9, 2016, which documents were invalidated by NYSOH on June 9, 2016 (see Documents [REDACTED], [REDACTED], [REDACTED], and [REDACTED]).

On June 13, 2016, NYSOH issued a notice stating that additional information was required to confirm your eligibility for health insurance through NYSOH. The notice also stated that, although you submitted documentation to resolve the inconsistency, additional proof of your income was required.

On June 14, 2016, you added your newborn to your application for health insurance.

On June 15, 2016, NYSOH issued a notice stating that the income information you provided does not match what NYSOH obtained from federal and data sources and they would not be able to make an eligibility determination for your newborn until you confirmed your income with additional information. The notice also stated that you must submit income documentation for your household by June 30, 2016.

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Also on June 15, 2016, NYSOH issued an eligibility redetermination notice that stated, based on your June 14, 2016 application, they had denied your request for help paying medical bills for January 1, 2016 through March 31, 2016. This was because the program you were eligible for cannot pay for any care you received in the past.

Also on June 15, 2016, NYSOH issued a disenrollment notice stating that your Medicaid Fee-For-Service will be discontinued as of June 30, 2016.

On July 11, 2016, NYSOH issued an eligibility redetermination notice, based on your July 10, 2016 system rerun, stating that you were eligible to purchase a qualified health plan at full cost, effective August 1, 2016, and that your newborn was conditionally eligible to purchase a qualified health plan at full cost, effective August 1, 2016. The notice also stated that you were not eligible for Medicaid because the household income you provided to us of \$43,000.00 is over the allowable income limit of \$27,821.00. The notice further stated that you were also ineligible for advance payments of the premium tax credit because you were already enrolled in employer sponsored health insurance.

On July 13, 2016, NYSOH issued an eligibility redetermination notice, based on your July 12, 2016 updated application, with the same findings as stated in the July 11, 2016 notice.

Also on July 13, 2016, NYSOH issued a notice stating that the income information you provided does not match what NYSOH obtained from federal and data sources and they would not be able to make an eligibility determination for your newborn until you confirmed your income with additional information. The notice also stated that you must submit income documentation for your household by July 27, 2016.

On July 14, 2016, you uploaded proof of your income, which included a letter, dated June 20, 2016, from your second employer stating that you worked for them approximately 12 hours per week at a rate of \$15.00 per hour and that you were on maternity leave until August 15, 2016. This document along with your other proofs of income that were previously submitted were validated by NYSOH on August 1, 2016 (see Document [REDACTED]).

On August 2, 2016, NYSOH issued an eligibility redetermination notice, based on your August 1, 2016 updated application, stating that you were eligible to purchase a qualified health plan at full cost, effective September 1, 2016, and that your newborn was eligible for Child Health Plus with a premium of \$15.00 per month, effective September 1, 2016. The notice also stated that you were not eligible for Medicaid because the household income you provided of \$45,440.00 was over the allowable income limit of \$27,821.00. You were also ineligible for advance payments of the premium tax credit because you were already enrolled in employer sponsored health insurance.

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On August 3, 2016, you spoke to NYSOH's Account Review Unit and appealed not being determined eligible for full Medicaid for the month of June 2016 and your newborn not being determined eligible for Medicaid in June 2016, the month of her birth.

Also on August 3, 2016, NYSOH issued an appeal notice stating that you appealed your and your newborn's "Eligibility determination."

On August 4, 2016, NYSOH issued an eligibility redetermination notice, based on your August 3, 2016 updated application, stating that you were eligible to purchase a qualified health plan at full cost, effective September 1, 2016, and your newborn was eligible for Child Health Plus with a premium of \$15.00 per month, effective September 1, 2016. The notice also stated that you were not eligible for Medicaid because the household income you provided to us of \$45,440.00 was over the allowable income limit of \$27,821.00. You were also ineligible for advance payments of the premium tax credit because you were already enrolled in employer sponsored health insurance.

On August 4, 2016, NYSOH issued an enrollment confirmation notice, based on your August 3, 2016 updated application, stating that your newborn was enrolled in a Child Health Plus plan effective September 1, 2016. That notice also stated that you need to choose a qualified health plan.

On January 6, 2017, you had a telephone hearing with a Hearing Officer from NYSOH's Appeals Unit. The record was held open until January 21, 2017 for you to submit proof of income for April 2016 through June 2016; specifically, proof of all paystubs and payments received in those months, proof of start date of unemployment benefits, proof of termination date of your second job, and proof of termination of employment for spouse.

As of January 21, 2017, the Appeals Unit did not receive any of these documents from you nor were they viewable in your NYSOH account. Therefore, the record was closed that day and this decision is based on the record as developed at the time of hearing

Findings of Fact

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

- 1) According to your NYSOH account, you updated your application for health insurance on April 11, 2016. You were found conditionally eligible for Medicaid pending submission of your proof of income.

- 2) According to your NYSOH account and your testimony, you expect to file your 2016 federal income tax return as married filing jointly, and claim one dependent.
- 3) According to the April 11, 2016 application, you attested to an expected annual household income of \$43,000.00. You testified that this income was an estimate at that time.
- 4) According to your NYSOH account, you uploaded proof of your income and your spouse's income received on April 25, 2016, May 4, 2016, May 26, 2016, and June 7, 2016. These submissions of proof of income were all invalidated by NYSOH because you failed to provide proof of your income for your second employer and a full four consecutive weeks of income for your first employer (see Documents [REDACTED], [REDACTED], [REDACTED], and [REDACTED]).
- 5) According to your NYSOH account, on July 14, 2016, you uploaded proof of your income from your second employer and additional proof of 4 consecutive paystubs from your spouse's employer. These documents were subsequently validated on August 1, 2016 (see Document [REDACTED]).
- 6) According to your NYSOH account, upon validation of your income, you were found to have a household income of \$45,440.00. You testified that this was correct.
- 7) According to your NYSOH account, your newborn child was born on [REDACTED], and you added her to your application on June 14, 2016
- 8) According to your NYSOH account, you were "pending Medicaid" from April 1, 2016 through June 30, 2016.
- 9) According to your NYSOH account, your newborn had no coverage through NYSOH in June 2016, but has Child Health Plus coverage, effective July 1, 2016.
- 10) You testified that you called NYSOH on numerous occasions and were told you had satisfied NYSOH's requests for proof of income, but in July 2016, were told that you did not qualify for Medicaid.
- 11) You testified that you had employer sponsored health insurance (ESI) but believed that Medicaid would cover any bills not covered by your ESI for yourself and your newborn. You are requesting to have your pending Medicaid status changed to full Medicaid benefits for the

month of June 2016, to cover medical expenses related to the birth of your child.

- 12) You testified that, although you stopped working at one job during your pregnancy, you remained employed and working at another job up until the time your child was born.
- 13) You also testified that you received unemployment benefits beginning on June 9, 2016, but did not receive any benefit payments until August 2016.
- 14) You further testified were unsure of what your income was for the months of April 2016 through June 2016.
- 15) You testified that your spouse has changed jobs and his income will change for 2016. You testified his new job began at the end of July 2016.
- 16) You testified you were unsure of what your spouse's income was for the months of April 2016 through June 2016.
- 17) The record was held open until January 21, 2017 for you to submit proof of income for April 2016 through June 2016; specifically, proof of all paystubs and payments received in those months, proof of start date of unemployment benefits, and proof of termination of employment for you and your spouse. You did not submit the documentation as directed by the deadline.
- 18) According to your NYSOH account, on August 3, 2016, you spoke to NYSOH's Account Review Unit and appealed not being determined eligible for full Medicaid benefits during the month of June 2016 and for your newborn not being found eligible for Medicaid in June 2016, the month she was born.
- 19) According to an eMedNY report dated February 10, 2017, you were at all times between April 1, 2016 and June 30, 2016 eligible for and enrolled in pending Medicaid.
- 20) You testified that the Medicaid coverage and your ESI you had does not cover certain labor, delivery, hospitalization and doctor's charges related to the birth and hospitalization of your child in June 2016, and you want to appeal those charges not being covered.

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

Applicable Law and Regulations

De Novo Review

NYSOH must review each appeal de novo and “consider all relevant facts and evidence adduced during the appeals process” (45 CFR § 155.535(f)). “De novo review means a review of an appeal without deference to prior decisions in the case” (45 CFR § 155.500).

Household Composition

For purposes of Medicaid eligibility, the household size of either a pregnant woman or a per child 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).

Medicaid for Pregnant Women

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) for the applicable family size (42 CFR §435.116 (c)(2); NY Department of Social Services Administrative Directive 13ADM-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, 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

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§ 435.4). On the date of your January 15, 2016 application under review, that was the 2015 FPL, which is \$28,410.00 for a five-person household (80 Fed. Reg. 3236, 3237).

Generally, Medicaid coverage begins on the first day of the month in which the applicant was found eligible (42 CFR § 435.915(b)).

Pregnant Women/Newborn Medicaid Eligibility

Pregnant women who meet the non-financial and financial criteria for Medicaid eligibility for any month during pregnancy are guaranteed Medicaid eligibility until the end of the month in which the 60th day occurs after the pregnancy ends. This eligibility remains regardless of any changes in household income. Infants born to women during their period of guaranteed eligibility are eligible until the end of the month in which the 60th day occurs after the birth, without regard to changes in household income (42 CFR § 435.116; SSA § 1902(a)(10); SSA § 1905(n); NY Social Services Law § 366(4)(b)) .

Legal Analysis

The first issue under review is whether NYSOH properly determined that you were not eligible for full Medicaid coverage for the month of June 2016.

The record reflects that you updated your account and applied for Medicaid for yourself on April 11, 2016. On April 12, 2016, NYSOH issued an eligibility determination notice stating that you were conditionally eligible for Medicaid, effective April 1, 2016. The notice further stated that you must provide proof of your income before April 26, 2016.

Although the record contains an April 12, 2016 eligibility determination notice on the issue of Medicaid eligibility for April 2016, it is silent as to your request for full Medicaid to cover your hospital bills for labor and delivery of your child in June 2016. The record does contain an August 3, 2016 telephone call to NYSOH in which you requested a full coverage Medicaid to cover outstanding bills you have from June 2016 and an August 4, 2016 notice in which NYSOH acknowledges receipt of an appeal request, and identifies you and your newborn as the appellants and the issue on appeal as “Eligibility determination.”

Here, the lack of a notice of eligibility determination on the issue of full Medicaid for you for the month of June 2016 does not prevent the Appeals Unit from reaching the merits of the case or constitute material error. Under 45 CFR § 155.505(b), you are as entitled to appeal NYSOH failure to timely issue a notice of eligibility determination as you are to appeal an adverse notice of eligibility determination. The text of the August 4, 2016 notice, which acknowledges the appeal on the issue of your and your newborn’s eligibility, along with the record

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of the August 3, 2016 telephone call made to NYSOH, in which you stated you wanted help covering the medical expenses you have for the month of June 2016, permits an inference that the NYSOH did deny your request for full Medicaid for yourself and your newborn in the month of June 2016.

Since the Appeals Unit review of NYSOH determinations is performed on a de novo basis, no deference would have been granted to an eligibility determination had it been issued. Therefore, the first issue under review is refined to whether you were properly denied full Medicaid benefits for the month of June 2016.

According to your NYSOH account, you had pending Medicaid for the months of April 2016 through June 2016, which is presumptive pending proof of income does not cover labor and delivery charges. You testified that, although you have ESI, you were told that any charges not covered by that insurance would be covered by Medicaid. You are seeking to have your Medicaid coverage changed to "full" Medicaid coverage for those months, so that labor and delivery charges related to your child's birth, can be covered.

The record reflects that, on April 11, 2016, you submitted your updated application for financial assistance and were found presumptively eligible for Medicaid, pending verification of proof of your household income.

In cases of presumptive eligibility, full Medicaid benefits can be made effective from the first day of the month that an individual is found fully eligible for Medicaid. However, you were never found fully eligible for Medicaid by NYSOH.

Since you were pregnant in the months of April 2016 through June 2016, and had presumptive Medicaid coverage, you might have been eligible for full Medicaid in the month of June 2016 provided you met the nonfinancial and financial requirements.

There is no indication in the record that you would not have been ineligible for Medicaid based on non-financial criteria during the months of April 2016 through June 2016. Therefore, the analysis turns to the financial requirements of Medicaid.

According to your NYSOH account and your testimony, you expect to file your 2016 taxes with a tax filing status of married filing jointly and to claim one dependent on your tax return. In all months from April 2016 through June 2016, you were pregnant with one child. Generally, a pregnant woman and the number of children she is expected to deliver is included in determining household size for Medicaid eligibility. Since you were pregnant in April 2016 through June 2016 with one child, who is now the only dependent in your household, and resided with your spouse, your household size for purposes of this analysis and at all times relevant was a three-person household.

According to the April 11, 2016 application, you attested to an expected annual household income of \$43,000.00. However, in your case, you were found presumptively eligible for Medicaid on April 12, 2016, which was conditioned upon you proving that you met the financial requirements to be eligible for Medicaid by submitting proof of your household income. Although you submitted proof of income on April 25, 2016, May 4, 2016, May 26, 2016, and June 7, 2016, those documents were invalidated by NYSOH (see Documents [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED]), you did not submit full proof of all of your sources of household income until July 14, 2016 (see Document [REDACTED]). NYSOH subsequently validated your proof of household income on August 1, 2016.

Upon validation of your proof of income, you were found to have an annual household income of \$45,440.00. As such, you were found ineligible for Medicaid on a financial basis and your presumptive eligibility status was not changed to full Medicaid status.

In cases of presumptive eligibility, full Medicaid benefits can be made effective from the first day of the month that an individual is found fully eligible for Medicaid.

To be eligible for Medicaid in June 2016, since you were pregnant that month, you would have needed to meet the non-financial criteria and have an income no greater than 223% of the 2016 FPL, which is \$ 44,801.00 per year for a three-person household. However, when your income was validated on August 1, 2016, it reflected an annual income of \$45,440.00. Since \$45,440.00 is 225.4% of the 2016 FPL, NYSOH properly found you to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

However, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

You testified that you were unsure of what your household income was for the months of April 2016 through June 2016. Although you stopped working at one job during your pregnancy, you remained employed and working at another job up until the time your child was born. You also received unemployment benefits beginning on June 9, 2016, but didn't receive any benefit payments until August 2016.

The record was held open until January 21, 2017 for you to submit proof of income for April 2016 through June 2016; specifically, proof of all paystubs and payments received in those months, proof of start date of unemployment benefits, and proof of termination of employment for you and your spouse. You

did not submit the documentation, therefore, this decision is based on the record as developed at the time of hearing.

Since you failed to submit full proof of income for any of the month's you were deemed presumptively eligible for Medicaid, that is from April 2016 through June 2016, we cannot reach the merits of whether you would have been eligible for "full" Medicaid benefits on a monthly basis.

Since the August 2, 2016 eligibility determination properly stated that, based on the information you provided, you were eligible to purchase a full price qualified health plan and ineligible for Medicaid, it is correct and is AFFIRMED.

The last issue remaining is whether NY State of Health properly determined that your newborn was not eligible for Medicaid, effective June 1, 2016.

You testified that you are seeking to have Medicaid coverage for your newborn as of her date of birth to cover the gap in his health coverage and cover medical and hospitalization expenses incurred relative to her birth.

Newborn children who are born to a woman who is Medicaid eligible at the time of birth, are automatically eligible for Medicaid at birth, without regard to changes in household income. You gave birth to your newborn on [REDACTED]

However, although you were pregnant in June 2016, you were never found fully eligible for Medicaid for that month and you remained presumptively eligible for Medicaid. Since you were still presumptively eligible for Medicaid in June 2016, your newborn child is not automatically eligible for Medicaid as of her date of birth. Therefore, your newborn would need to be found eligible on her own basis for Medicaid in the month of her birth.

There is no indication in the record that your newborn would not have been eligible for Medicaid based on non-financial criteria in June 2016, the month of her birth. Therefore, the analysis turns to the financial requirements of Medicaid.

To be eligible for Medicaid in June 2016, your newborn would have needed to have an income no greater than 223% of the 2016 FPL, which is \$44,801.00 per year for a three-person household size. Since \$45,440.00 is 225.4% of the 2016 FPL, NYSOH properly found your newborn to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

However, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

You testified that you were unsure of what your household income was for the month of June 2016. Although you stopped working at one job during your pregnancy, you remained employed and working at another job up until the time your child was born. You also received unemployment benefits beginning on June 9, 2016, but didn't receive any benefit payments until August 2016.

The record was held open until January 21, 2017 for submittal of proof of income for April 2016 through June 2016, specifically, proof of all paystubs and payments received in those months, proof of start date of unemployment benefits, and proof of termination of employment for you and your spouse. You did not submit the documentation, therefore, this decision is based on the record as developed at the time of hearing.

Since you failed to submit full proof of income for the month of June 2016, we cannot reach the merits of whether your newborn would have been eligible for Medicaid on a monthly basis during that month.

Since the August 2, 2016 eligibility determination properly stated that, based on the information you provided, your newborn was Child Health Plus and ineligible for Medicaid, it is correct and is AFFIRMED.

Decision

The August 2, 2016 eligibility determination is AFFIRMED.

Effective Date of this Decision: February 22, 2017

How this Decision Affects Your Eligibility

Your eligibility does not change.

You were not eligible for "full" Medicaid benefits for the month of June 2016.

Your newborn's eligibility does not change.

Your newborn was not eligible for Medicaid in June 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:
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Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The August 2, 2016 eligibility determination is AFFIRMED.

You were not eligible for “full” Medicaid benefits for the month of June 2016.

Your newborn’s eligibility does not change.

Your newborn was not eligible for Medicaid in June 2016.

Legal Authority

We are issuing this determination in accordance with 45 CFR § 155.545.

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A Copy of this Decision Has Been Provided To:

