



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

Notice of Decision

Decision Date: August 14, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: APM00000000006

[REDACTED]

Dear [REDACTED],

On April 9, 2015, you appeared by telephone at a hearing on the NY State of Health's December 4, 2014 and February 14, 2015 eligibility redeterminations.

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 federal regulation 45 CFR § 155.545(b).

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Decision Date: August 14, 2015

NY State of Health Number: [REDACTED]
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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, effective January 1, 2015 and March 1, 2015, you are eligible to purchase a qualified health plan at full cost and your daughter is conditionally eligible for Child Health Plus or a child-only qualified health plan at full cost?

Did the Marketplace properly disenroll you from Medicaid, effective December 31, 2014 and again on February 28, 2015?

Did the Marketplace properly find your daughter eligible for Medicaid, effective November 1, 2014?

Procedural History

On May 23, 2014, the Marketplace issued a notice of eligibility determination that you are eligible for Medicaid and that more information is needed. The notice further stated that your health insurance coverage under Medicaid Fee-For-Service would begin May 1, 2014 and your enrollment with HealthPlus, an Amerigroup New York LLC Medicaid Managed Care (MMC) plan, would begin July 1, 2014.

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On December 3, 2014, you updated your account and attested to an expected yearly income of \$71,299.00. On December 4, 2014, the Marketplace redetermined your eligibility based on the updated information it had received from you and issued a notice that stated: effective January 1, 2015, you are newly eligible to purchase a qualified health plan at full cost and your newborn child is conditionally eligible to enroll in health coverage through a Child Health Plus plan at full cost or a child-only qualified health plan. The notice also stated that you no longer qualify for Medicaid through NY State of Health and your information will be sent to your local Department of Social Services to determine your eligibility for Medicaid on a different basis. It also stated that your Medicaid coverage will continue until they make a decision on your case.

On February 14, 2015, the Marketplace issued a notice of eligibility redetermination that you are eligible to enroll in a qualified health plan at full cost effective March 1, 2015, you need to pick a plan, and that your current coverage will end February 28, 2015.

On February 15, 2015, the Marketplace issued a disenrollment notice that your coverage with Healthfirst, an Amerigroup New York LLC Medicaid Managed Care plan, will end effective February 28, 2015.

On February 18, 2015, you submitted a written appeal request to the Marketplace.

On April 9, 2015, 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.

Earlier that same day, the Marketplace issued a notice of eligibility redetermination that you and your daughter are eligible for Medicaid. Your effective date was April 1, 2015 and your daughter's effective date was November 1, 2014. That notice informed you that additional information on the absent parent was needed and as a condition of eligibility for Medicaid coverage, you must cooperate and supply information to help identify and locate the absent parent or attest that you are unable to provide the required information because of your lack of knowledge, or you must demonstrate that you have good cause for not cooperating.

Also earlier that same day, the Marketplace issued a notice confirming your daughter's enrollment with HealthPlus, an Amerigroup plan, and it also informed that you had not chosen a health plan yet. The notice further stated that your insurance coverage through Medicaid will begin January 1, 2015, but you must choose a health plan soon or one will be chosen for you, and your daughter's health insurance through Medicaid will begin January 1, 2015 and enrollment with Healthfirst will begin November 1, 2014.

Findings of Fact

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

- 1) You are single and gave birth to your only child on [REDACTED].
- 2) You expect to file your 2014 and 2015 tax returns as Head of Household with a Qualifying Individual, your infant child.
- 3) You provided documentation in 2014 to support that your income for May 2014, the month in which you initially applied for health insurance coverage through the Marketplace, was \$0.00.
- 4) You testified and provided documentary proof that you later became employed on July 7, 2014, and were employed until November 25, 2014, when you went on an unpaid leave of absence. You testified that you had no income for December 2014, January 2015, February 2015 or March 2015.
- 5) You testified and provided a chronology of events in your February 18, 2015 written appeal that you tried to add your newborn to your Marketplace application and to update your income information on December 3, 2014, which resulted in a December 4, 2014 notice stating that your and your daughter's coverage would end as of December 31, 2014.
- 6) You further testified and stated in your February 18, 2015 written appeal that your Marketplace application went into a resequencing status when you were updating your application. You stated that the Marketplace representatives you spoke with were aware of this technical error and could not resolve it, but verbally assured you that you and your daughter would continue to be covered under Medicaid.
- 7) You testified and stated in your February 18, 2015 written appeal that you did not receive an insurance card for your daughter but were able to use her "unborn child" card for medical services in 2014.
- 8) You testified and stated in your February 18, 2015 written appeal that you had to purchase private health insurance for yourself and your daughter through your employer, effective January 1, 2015, because the Marketplace never issued any notice contrary to the December 4, 2014 disenrollment notice that stated you and your daughter were no longer insured through the Marketplace, effective December 31, 2014.

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- 9) You want to be reimbursed for the monthly premiums you had to pay for private health insurance (\$300.00 per month) for January, February, and March 2015, and co-pays and out-of-pocket expenses you incurred for your daughter and yourself as of January 1, 2015.

- 10) You testified and provided documentary proof that you were on an unpaid maternity leave from November 2014 through March 2015, had no income during that period and no benefits, and lived off of your savings.

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

Applicable Law and Regulations

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)).

“Adjusted gross income” is the gross income of the taxpayer minus the deductions permitted (26 USC § 62). Subject to some limitations, interest on a qualified educational loan may be deducted from adjusted gross income in an amount up to \$2,500 in interest paid by taxpayers during the taxable year, for taxpayers whose yearly income does not exceed \$160,000 (26 USC § 221; see also (26 USC § 62 (a)(17))). Deductions that are attributable to a trade or business are also allowed (26 USC § 62 (a)(1)).

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).

Most adults 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 Marketplace account. For example, even if income increases above the Medicaid limit allowed for the household size, the insured will remain covered under

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Medicaid for a twelve-month period. This twelve-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 a subsequent Medicaid eligibility determination based on modified adjusted gross income (N.Y. Soc. Serv. Law § 366(4)(c)).

People who receive or are eligible for Medicaid are not eligible for an advance premium tax credit (APTC) (see 45 CFR § 155.305(f)(1)(ii)(B), 26 CFR § 1.36B2(c)(2)).

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 of May 22, 2014, that was the 2014 FPL, which is \$15,730.00 for a two-person household (79 Fed. Reg. 3593, 3593).

Medicaid Eligibility for Children under One Year of Age

Infants under the age of one are eligible for Medicaid with a MAGI household income up to 223% of the FPL for the applicable family size (13 OHIP/ADM-03 - Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010 (III)(B)(1)(b), 9/25/13; see *also* NY Social Services Law § 366(1)(b)(2); 42 CFR § 457.310(b)(1)(i)).

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 (N.Y. Soc. Serv. Law § 366(4)(b)(3)(i)).

Reimbursement for Out-of-Pocket Expenses

Although Medicaid payments are generally made only to providers, 18 NYCRR § 360-7.5(a) provides two exceptions in which direct reimbursement of paid medical bills may be made to eligible Medicaid recipients or their representatives.

Under one exception, the regulation provides that Medicaid recipients or their representatives may be reimbursed when, through no fault of their own:

- (a) an erroneous Medicaid eligibility determination is reversed (whether the reversal is due to the state or local agency discovering its own error or is the result of a fair hearing decision or court order), or the state or local agency fails to determine Medicaid eligibility within the applicable time periods; and
- (b) an erroneous eligibility determination or the delay in determining eligibility caused the recipient or the recipient's representative to pay for medically necessary services which otherwise would have been paid for by the Medicaid program.

18 NYCRR §360-7.5(a)(3)(i).

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Legal Analysis

The first issue is whether or not the Marketplace correctly determined you eligible to enroll in a qualified health plan at full cost as of January 1, 2015 and then as of March 1, 2015. A second and related issue is whether the Marketplace properly disenrolled you from your Medicaid Managed Care plan as of February 28, 2015.

On December 3, 2014, your account was modified to add your newborn daughter and change your income amount. Your updated information resulted in the Marketplace redetermining your eligibility and issuing a notice on December 4, 2014 that you were no longer eligible for Medicaid.

The Marketplace issued a notice of eligibility redetermination on February 14, 2015, wherein it was again determined that you are eligible to purchase a qualified health plan at full cost with an effective date of March 1, 2015.

In New York State, once a person is eligible for Medicaid, that eligibility continues for 12 months, even if the household income rises above 138% (223% for an infant under the age of 1 year old) of the federal poverty level (FPL). This provision is called "continuous coverage."

Therefore, once the Marketplace properly determined that you were eligible for Medicaid as of May 1, 2014, you should have been found to remain covered under Medicaid until April 30, 2015.

As such, the December 4, 2014 and February 14, 2015 notices of eligibility redetermination and the February 15, 2015 disenrollment notice were incorrect but have since been superseded and rendered moot as of the issuance of the April 9, 2015 notices of eligibility redetermination and enrollment that state you are Medicaid eligible beginning January 1, 2015. The January 1, 2015 coverage date was provided so as to provide you with uninterrupted coverage that resulted from the December 4, 2014 eligibility redetermination.

The second issue is the effective date of your daughter's health insurance coverage through Medicaid. A newborn is covered under the mother's insurance for the first month such that your daughter was covered under your Medicaid managed care (MMC) plan in November 2014. Thereafter, a child under the age of one is eligible for Medicaid with a modified adjusted gross income (MAGI) household income up to 223% of the FPL for the applicable family size. You have a two-person household and your income in December 2014 was \$0.00. A monthly income of \$0.00 is 0.0% of the FPL such that your daughter was eligible for Medicaid as of December 1, 2014. Therefore, the April 9, 2015 notices of eligibility and enrollment correctly state that your daughter is eligible for Medicaid and has coverage under HealthPlus as of November 1, 2014, and therefore are **AFFIRMED**.

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In order to qualify for Medicaid reimbursement of third-party insurance premiums and out-of-pocket expenses, you and your daughter must be eligible for Medicaid. Since you were both eligible for Medicaid during January, 2015, February 2015, and March 2015, you are eligible to be reimbursed for your private insurance premiums and/or out-of-pocket expenses for those months.

Decision

The December 4, 2014 and February 14, 2015 notices of eligibility redetermination and the February 15, 2015 disenrollment notice were incorrect and have been superseded and are therefore rendered moot.

The April 9, 2015 notices of eligibility redetermination and enrollment are AFFIRMED.

Effective Date of this Decision: August 14, 2015

How this Decision Affects Your Eligibility

This decision does not change your or your daughter's eligibility. As of November 1, 2014, your daughter was eligible for Medicaid and as of January 1, 2015, you were eligible for Medicaid.

You are eligible to be reimbursed for your private insurance premiums and/or out-of-pocket expenses for the months of January 2015, February 2015, and March 2015.

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)).

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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 4, 2014 and February 14, 2015 notices of eligibility redetermination and the February 15, 2015 disenrollment notice were incorrect and have been superseded and are therefore rendered moot.

The April 9, 2015 notices of eligibility redetermination and enrollment are AFFIRMED.

This decision does not change your or your daughter's eligibility. As of November 1, 2014, your daughter was eligible for Medicaid and as of January 1, 2015, you were eligible for Medicaid.

You are eligible to be reimbursed for your private insurance premiums and/or out-of-pocket expenses for the months of January 2015, February 2015, and March 2015.

Legal Authority

We are sending you this notice in accordance with Federal regulation 45 CFR § 155.545(a).

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A Copy of this Decision Has Been Provided To:

