



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

Notice of Decision

Decision Date: October 28, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: APM0000000011

[REDACTED]

Dear [REDACTED],

On July 3, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 27, 2015 eligibility determination regarding your infant 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).

This page intentionally left blank.



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

Decision

Decision Date: October 28, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: APM00011

[REDACTED]

Issue

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

Did the Marketplace properly determine that your child was eligible for Medicaid, effective May 1, 2015 and again eligible for Medicaid effective July 1, 2015?

Procedural History

On November 7, 2014, the Marketplace issued a renewal notice that stated, if the information on your application was still accurate, you did not need to do anything further and you were automatically re-enrolled in your current silver-level qualified health plan for 2015, effective January 1, 2015. The notice further stated that you were eligible to receive up to \$326.41 per month in advance premium tax credits and eligible for cost sharing reductions, effective January 1, 2015, and not eligible for Medicaid because federal and state data sources show your income is between \$16,105.00 and \$46,680.00, which is the income range for tax credits based on your household size.

On December 14, 2014, the Marketplace issued an enrollment notice confirming your selection of a silver-level qualified health plan and monthly premium responsibility of \$191.19 after your monthly APTC of \$326.41 was applied. That notice stated that coverage could begin as soon as you paid your first month's premium and could start as early as January 1, 2015.

On April 9, 2015, the Marketplace issued a notice of eligibility redetermination that you were eligible for Medicaid, effective April 1, 2015, based on your updated income information of \$20,000.00, because it was at or below the Medicaid allowable income limit of \$27,725.00 for a three-person household.

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).

That same day, based on your updated application, the Marketplace issued a notice that your newborn child was not eligible to receive help to pay for health coverage or to enroll in a qualified health plan at full cost through New York State of Health because she had to obtain and provide a Social Security Number (SSN) and her citizenship status could not be verified. The notice further indicated that if circumstances change, you may reapply for health insurance for your child.

On April 24, 2015, you contacted the Marketplace's Account Review Unit and appealed these eligibility determinations for two reasons: (1) "[your] file is still in the re-sequenced stage and an eligibility determination has not been received for [your] daughter. Defect filed [REDACTED];" and (2) "... [you were] told [your] daughter would be covered under [your] policy for the first 30 days" (NY State of Health Appeal Summary, dated April 30, 2015).

Between April 30, 2015 and June 30, 2015, your Marketplace account was updated several times resulting in the eligibility for you and your child being redetermined.

On May 3, 2015, the Marketplace issued a notice regarding your infant child that stated her application for health insurance had been reviewed but more information was needed to determine her eligibility. You were instructed to submit income information for your household by May 18, 2015.

On May 9, 2015, the Marketplace issued another notice regarding your infant child's application and the need for more information. You were again instructed to submit income information for your household, this time by May 24, 2015.

Your May 9, 2015 fax, with your income statement for three months attached, was uploaded to your Marketplace account on May 12, 2015.

On May 15, 2015, the Marketplace issued a notice of eligibility redetermination that, in relevant part, stated your infant child was eligible for Medicaid, effective May 1, 2015.

That same day, the Marketplace issued an enrollment notice confirming your infant child's health insurance coverage under Medicaid Fee-For-Service, effective May 1, 2015. It also informed you that you needed to choose a plan for your infant child soon or one would be chosen for her.

On May 21, 2015, the Marketplace issued a notice of eligibility redetermination that, in relevant part, stated your infant child was conditionally eligible to enroll in Child Health Plus with a \$15.00 per month premium, effective July 1, 2015.

That same day, the Marketplace issued an enrollment notice confirming your child's enrollment in a Child Health Plus plan with UnitedHealthcare Community Plan, and that health insurance coverage will begin after you have paid the first month's premium of \$15.00, which could start as early as July 1, 2015.

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).

Also that same day, the Marketplace issued a disenrollment notice that your child's coverage under Medicaid Fee-For Service would be discontinued effective June 30, 2015.

On May 22, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. During that hearing, it was confirmed that your second issue had been resolved; that is, that your infant child was covered under your health insurance for the first 30 days. The status of your first issue was uncertain. Therefore, the Hearing Officer granted an adjournment for another hearing at a later date.

On May 27, 2015, the Marketplace issued a notice of eligibility redetermination that, in relevant part, stated your infant child was conditionally eligible to enroll in Child Health Plus with a \$15.00 premium per month, effective July 1, 2015. The notice further stated that you needed to confirm your household's income by providing documentation before July 25, 2015.

That same day, the Marketplace issued an enrollment notice confirming your child's enrollment in a Child Health Plus plan with Fidelis Care, and that health insurance coverage could start as early as July 1, 2015 provided you paid the first month's premium of \$15.00.

Also that same day, the Marketplace issued a cancellation notice based on your May 26, 2015, request to cancel insurance for your infant child with UnitedHealthCare Community Plan, which request the notice stated had been processed.

On May 28, 2015, the Marketplace issued a notice of eligibility redetermination that, in relevant part, stated your child was conditionally eligible for Child Health Plus effective July 1, 2015, and you needed to confirm her household's income by providing documentation before July 27, 2015.

On June 23, 2015, the Marketplace issued a notice reminding you that you needed to provide more information regarding your and your infant child's household income.

On June 24, 2015, the Marketplace issued a cancellation notice that your child's health coverage with Fidelis Care Child Health Plus will end effective July 1, 2015.

On June 30, 2015, your and your spouse's income documents were uploaded to your Marketplace account and verified on July 1, 2015.

On July 2, 2015, the Marketplace issued a notice of eligibility redetermination based on your updated income information that, in relevant part, stated your infant child is eligible for Medicaid effective July 1, 2015 and, according to the enrollment notice of that date, had coverage through Medicaid-Fee-For-Service effective July 1, 2015 and Medicaid Managed Care with Fidelis Care effective August 1, 2015.

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).

On July 3, 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.

Findings of Fact

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

- 1) According to your Marketplace account, you individually re-enrolled with Empire HMO 2000 Silver, an Empire Blue Cross Blue Shield (BCBS) plan, through the Marketplace effective January 1, 2015.
- 2) According to your Marketplace application, your infant child was born on [REDACTED], and you testified that you promptly reported her birth to the Marketplace and your then insurance plan, Empire HMO 2000 Silver, for her to be covered under your health plan.
- 3) You testified that your infant child was covered as of her date of birth and throughout March 2015; and her hospitalization bills and pediatrician bills for March 2015 treatment and care were covered by your health plan.
- 4) According to your Marketplace account and application before April 8, 2015, your household consisted of only you, and your reported income was \$20,000.00.
- 5) According to your Marketplace account and your testimony, on April 8 and 9, 2015, you updated your household to include your newborn child and your spouse, but did not report any change in your household income at that time.
- 6) According to your Marketplace account as of April 8, 2015, your household consisted of you, your spouse, and your newborn child and the reported household income remained at \$20,000.00. Your application as of that date reflected that you expect to file your 2015 federal tax return with a tax filing status of Head of Household with Qualifying Individuals and plan on claiming your spouse and child as dependents.
- 7) According to your Marketplace account, on April 8, 2015, your newborn child and spouse were added as household members resulting in a change in your household size, which triggered the Marketplace to redetermine your household's eligibility. You were found eligible for Medicaid effective April 1, 2015 based on a three-person household and an annual household income of \$20,000.00.
- 8) According to your Marketplace application on April 8, 2015, you declined to provide your newborn child's Social Security Number to the Marketplace.

- 9) Your infant child's eligibility could not be determined until her Social Security Number was provided and her citizenship status confirmed as stated in the Marketplace's April 9, 2015 notice.
- 10) According to your Marketplace account, your infant child's Social Security Number was added as of April 30, 2015.
- 11) You testified that your infant child's coverage ended as of April 1, 2015 because you were determined eligible for Medicaid as of that date and no longer had coverage with Empire HMO 2000 Silver. You further testified that your infant child went without coverage for the month of April 2015, during which month you incurred additional medical bills for her newborn care.
- 12) You testified that you did not incur any medical bills for your infant child in May or June 2015, but that she has a pediatrician visit scheduled during July 2015 and her pediatrician does not accept Medicaid Fee-For-Service.
- 13) You want your infant child's health coverage under Child Health Plus to be effective as of April 1, 2015 and her health coverage through Medicaid Managed Care to be effective July 1, 2015, so her medical bills are covered during both of these months. You feel that your infant child was not afforded health coverage as a result of Marketplace misinformation and technical difficulties it was experiencing.
- 14) On May 12, 2015, you provided the Marketplace with an income statement of your self-employment earnings during the months of February, March, and April 2015. Your reported earnings for April 2015 were \$4,100.00 in gross income and \$2,694.00 after business expenses were deducted. According to your Marketplace application, your spouse had no income at the time.
- 15) On June 30, 2015, you provided the Marketplace with an income statement that showed you had gross income of \$4,100.00 in April 2015 and \$2,300.00 in June 2015. You testified that you had lost a client in the end of May 2015 and this loss affected your monthly income.
- 16) That same day, you provided earning statements for your spouse showing that on May 29, 2015, he received gross earnings of \$255.00; on June 5, 2015 received \$340.00; On June 12, 2015 received \$340.00; and on June 19, 2015 received \$340.00. The year-to-date earnings on the earnings statement dated May 29, 2015 shows he had earned \$6,895.00, and as of June 19, 2015 had earned \$7,915.00.
- 17) On July 1, 2015, your Marketplace application was updated to reflect a household income of \$27,975.00. This amount consists of your expected income of \$11,400.00 plus your spouse's expected income of \$16,575.00.

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

Applicable Law and Regulations

Newborn Child – Effective Date of Coverage

In general, to add a newborn child as a dependent to a health plan, the parent is required to enroll the newborn child within 30 days after he or she is born so that coverage becomes effective from the moment of birth (NYS Insurance Law § 4305).

In addition, there are special effective dates in the case of birth, adoption, placement for adoption, or placement in foster care of a child for Marketplace Exchanges. The Marketplace must ensure that coverage is effective for a qualified individual or enrollee on the date of birth, adoption, placement for adoption, or placement in foster care, or it may permit the qualified individual or enrollee to elect a coverage effective date of the first of the month following the date of birth, adoption, placement for adoption, or placement in foster care (45 CFR §155.420(b)(2)).

If the Exchange permits the qualified individual or enrollee to elect a coverage effective date of either the first of the month following the date of birth, adoption, placement for adoption or placement in foster care, the Exchange must ensure coverage is effective on the date duly selected by the qualified individual or enrollee (45 CFR § 155.420(b)(2)).

Verification Process

For all individuals whose income is needed to calculate the household's eligibility, the Marketplace must request data that will allow the Marketplace to verify the household's income (45 CFR §155.320(c)(1)(i)). If the Marketplace cannot verify the income information required to determine eligibility they must attempt to resolve the inconsistency including giving the applicant the opportunity to submit satisfactory documentary evidence (45 CFR §155.315(f)).

As a condition of eligibility for Medicaid, an individual, including children, must furnish their social security number to the Marketplace for verification purposes (42 CFR § 435.910(a)).

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

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).

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

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).

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 dates of your child’s applications, that was the 2015 FPL, which was \$20,090.00 for a three-person household (80 Fed. Reg. 3236, 3237).

An individual is eligible for fee-for-service Medicaid effective on the first day of the month if an individual was eligible any time during that month (42 CFR 435.915(b)).

Medicaid Managed Care (MMC) plan enrollments received on or before the fifteenth day of the month are effective the first day of the following month. Enrollments received after the fifteenth day of the month are effective the first day of the second following month (Medicaid Managed Care Model Contract (Appendix H-6(b)(ii) & (iii), effective 3/1/2014 – 2/28/2019; see, §11115 Soc. Sec. Act; N.Y. Soc. Serv. Law §364-j(1)(c); 18 NYCRR 360-10.3(h)).

Legal Analysis

The first issue under review is whether the Marketplace properly determined that your infant child was eligible for Medicaid, effective May 1, 2015.

According to the record, you expect to file your 2015 federal income tax return as Head of Household with Qualifying Individuals and plan on claiming your spouse and one child as dependents on that tax return. Therefore, you have a three-person household for purposes of this analysis.

On your April 8, 2015 application, you attested to an expected household income of \$20,000.00. The application also stated that your child is 0 (zero) years old as she was a newborn at the time. The Marketplace relied upon this information in determining that you were newly eligible for Medicaid.

Your application of that date also states that you did not want to provide a Social Security Number for your infant child. The Marketplace relied upon this information and issued a notice on April 9, 2015 indicating that your child was not eligible to receive financial assistance or to enroll in a qualified health plan at full cost because she needs to obtain and provide her SSN to the Marketplace for verification purposes.

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).

Thereafter, it appears from the record that you experienced technical difficulties with enrolling your child on April 30, 2015 when her Social Security Number was provided.

Medicaid can be provided through the Marketplace to children under one year of age who meet the non-financial requirements and have a household modified adjusted gross income (MAGI) that is at or below 223% of the FPL for the applicable family size. Since \$20,000.00 is 99.55% of the 2015 FPL for a three-person household, on April 30, 2015, your infant child should have been found eligible for Medicaid as of April 1, 2015. Therefore, the May 15, 2015 notice of eligibility redetermination is MODIFIED in part to state that your child is eligible for Medicaid Fee-For-Service effective April 1, 2015.

You testified that you want your child enrolled in health coverage through Child Health Plus and not Medicaid for that month. 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.

The second issue under review is whether your child was properly provided health coverage through Medicaid Fee-For-Service beginning July 1, 2015 and not coverage under a Medicaid Managed Care (MMC) plan. Since your income documents were not provided until June 30, 2015 and verified on July 1, 2015, your child's eligibility for Medicaid was not determined until July 1, 2015. Therefore, the earliest your child would be eligible to enroll in an MMC plan is August 1, 2015. According to the July 2, 2015 notice confirming her enrollment, she was properly enrolled in Fidelis Care, an MMC plan, effective August 1, 2015.

Accordingly, the July 2, 2015 notice of eligibility determination that your child was eligible for Medicaid effective July 1, 2015 and the July 2, 2015 enrollment notice that your child's enrollment in an MMC plan is effective August 1, 2015 are correct and are AFFIRMED.

Decision

The May 15, 2015 notice of eligibility redetermination is MODIFIED in part to state that your child is eligible for Medicaid Fee-For-Services effective April 1, 2015.

The July 2, 2015 notices of eligibility determination and enrollment are AFFIRMED.

Effective Date of this Decision: October 28, 2015

How this Decision Affects Your Eligibility

Your child's eligibility for Medicaid is being made effective April 1, 2015, and again July 1, 2015.

Your child's enrollment in a Medicaid Managed Care plan is effective August 1, 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)).

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

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).

Summary

The May 15, 2015 notice of eligibility redetermination is MODIFIED in part to state that your child is eligible for Medicaid Fee-For-Services effective April 1, 2015.

The July 2, 2015 notices of eligibility determination and enrollment are AFFIRMED.

Your child's eligibility for Medicaid is being made effective April 1, 2015, and again July 1, 2015.

Your child's enrollment in a Medicaid Managed Care plan is effective August 1, 2015.

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:

