



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

Notice of Decision

Decision Date: July 15, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000579

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On May 20, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 24, 2014 preliminary eligibility determination and subsequent notices of eligibility determination.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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 the NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification Number at the top of this form.

Legal Authority

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

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Issue

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

Whether the Marketplace properly determined that on and after January 24, 2014, [REDACTED] were Medicaid eligible.

Procedural History

On January 23, 2014, the Appellant filed an application for health insurance through the Marketplace for himself, his spouse, and their dependent child. He indicated an expected household income of \$48,440.00. All three were found eligible to enroll in a qualified health plan through the Marketplace.

On January 24, 2014, the application was modified several times. It was changed to indicate that the Appellant's spouse had health insurance under COBRA until March 7, 2014. During one of the modifications, the expected household income was set to \$25,200.00 and the resulting preliminary determination indicated that all three family members were Medicaid eligible. Although the Appellant promptly changed the expected household income, once to \$48,000.00 and once to \$60,000.00, the Marketplace continued to find the family Medicaid eligible. On April 29, 2014, the Marketplace issued notices of redetermination confirming that although, with income of \$48,000.00 or \$60,000.00, the Appellant no longer met the income limit for Medicaid, Medicaid coverage would continue until December 31, 2014.

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On multiple occasions until May 1, 2014, the Appellant reapplied for health insurance through the Marketplace, indicating a household income in excess of \$48,000.00. In notices dated April 19, 2014; April 29, 2014; April 30, 2014; May 2, 2014; and May 3, 2014; the Marketplace again found the Appellant and his family Medicaid eligible based on continuous coverage.

On March 31, 2014, the Appellant submitted a written appeal contending that his family had been “incorrectly designated for Medicaid coverage.”

On May 20, 2014, the Appellant had a telephone hearing. Testimony was taken at the hearing. The record was developed during the hearing and held open until June 3, 2014 for the purpose of providing the Appellant an opportunity to submit additional income documentation.

Additional income documentation was received from the Appellant on June 2, 2014. The record is now complete and closed.

Findings of Fact

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

1. On January 23, 2014, the Appellant applied for health insurance through the NY State of Health Marketplace for himself, his spouse, and their daughter. He indicated an expected household income of \$48,440.00
2. On January 24, 2014, the Appellant made multiple attempts to modify his Marketplace application. When he entered a household income of \$25,200.00, the Marketplace determined all members of the household to be Medicaid eligible. According to notices of eligibility determination issued on April 29, 2014, two additional determinations made on January 24, 2014 found the appellant’s family eligible for Medicaid on household incomes of \$48,000.00 and \$60,000.00.
3. The Appellant’s family was again found eligible for Medicaid in eligibility determination notices issued on April 19, 2014 (for a March 7, 2014 redetermination); April 29, 2014 (for January 28, 2014; January 30, 2014; and April 8, 2014 redeterminations); April 30, 2014 (for an April 29, 2014 redetermination); May 2, 2014 (for a May 1, 2014 redetermination); May 3, 2014 (for a May 2, 2014 redetermination); May 6, 2014 (for a May 5, 2014 redetermination); and May 20, 2014 (for a May 19, 2014 redetermination). In each case, the family’s income was at least \$48,000.00 on the application.
4. The Appellant is currently living with his spouse and their daughter.

5. The Appellant plans to file a 2014 federal income tax return.
6. The Appellant plans to file with the tax status of married filing jointly with his spouse and to claim one dependent on his 2014 federal income tax return.
7. The Appellant testified that his expected household income for 2014 is \$48,440.00.
8. The Appellant is self-employed. As evidenced by an income statement, the Appellant earned \$4,026.40 in January 2014, \$3,949.08 in February 2014, \$4,096.26 in March 2014, and \$3,996.86 in April 2014.
9. The Appellant's spouse had health insurance coverage through COBRA until March 7, 2014.

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

Applicable Law and Regulations

An individual is eligible for enrollment in Medicaid when he or she meets the nonfinancial criteria and has a household income that is at or below the applicable Medicaid income standard (45 CFR § 155.305(c); N.Y. Soc. Serv. Law § 366(1)(b)).

The first step in identifying whether an applicant meets the financial eligibility criteria for Medicaid is determining the number of individuals included in applicant's household. An applicant who expects to file a tax return for the taxable year and who does not expect to be claimed as a tax dependent by another taxpayer, the household consists of the taxpayer and all persons whom such individual expects to claim as a tax dependent (42 CFR 435.603(f)(1); Social Service Law § 366(1)(a)(5)(i)).

Next, the household's modified adjusted gross income is determined and compared to the federal poverty level (FPL). The FPL is contingent upon the number of individuals who are included in the applicant's household. Individuals who are age 19 or older and under 65, not pregnant and not entitled to enroll in Medicare are eligible for Medicaid if their modified adjusted gross income is at or below 138% of the FPL for the applicable family size (42 CFR §§ 435.119(a), 435.603(d)(4); N.Y. Soc. Serv. Law § 366(1)(b)(1)). Children at least one year of age but younger than nineteen years of age are Medicaid eligible with a household income up to 154% of the FPL for the applicable family size (NY Dept. of Social Serv Admin Directive 13 ADM-03).

Adults determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage even if they no longer qualify for Medicaid because of changes or updates they make to their Marketplace account regarding, for example, increased income. This 12-month period is referred to as “continuous coverage” and is based on modified adjusted gross income as of the start date of the Medicaid eligibility determination or redetermination (N.Y. Soc. Serv. Law § 366(4)(c)).

Legal Analysis

For purposes of a Medicaid analysis, the Appellant’s household includes three people: the Appellant, the Appellant’s spouse, and one dependent.

On January 23, 2014, the Appellant filed an application for health insurance through the Marketplace for himself, his spouse, and his daughter. He indicated that his household income was \$48,440.00. This is consistent with the Appellant’s sworn testimony, on May 20, 2014, that the expected household income for 2014 is \$48,440.00.

On January 24, 2014, the application was modified to include the spouse’s then-active COBRA coverage, which was to continue until March 7, 2014. The application also was modified at least three times on January 24, 2014 to indicate three different household incomes: \$25,200.00, \$48,000.00, and \$60,000.00.

When the Marketplace determined eligibility on a household income of \$25,200.00, it found the entire household to be eligible for Medicaid. Once that Medicaid determination was generated, all subsequent determinations, whether made on January 24, 2014 or later, stated that the family was eligible for Medicaid regardless of income level. This was due to operation of the continuous coverage provision in New York’s Social Services Law.

Since the Appellant entered three different expected incomes on January 24, 2014, the question becomes whether \$25,200.00 should be relied upon as being the most credible.

When the Appellant first submitted the Marketplace application, and when he testified four months later, he asserted that his expected 2014 income was \$48,440.00. According to an income statement, the Appellant earned \$16,068.60 during the first four months of 2014: \$4,026.40 in January, \$3,949.08 in February, \$4,096.26 in March, and \$3,996.86 in April. If the Appellant’s earnings continue at the same rate for the balance of 2014, this yields an income of \$48,205.80 for the full year. This falls very close to the Appellant’s original estimate of \$48,440.00, making it more credible than either the \$25,200.00 estimate or the \$60,000.00 estimate.

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Since the \$25,200.00 expected income is not supported by the record, the eligibility determinations that rely on it also are not supported by the record and must be RESCINDED.

The Marketplace should redetermine eligibility as of January 24, 2014 for a three-person household with an expected 2014 income of \$48,440.00.

Decision

The preliminary eligibility determination of January 24, 2014, and the notices of eligibility determination dated April 29, 2014; April 30, 2014; May 2, 2014; May 3, 2014; May 6, 2014; and May 20, 2014 are RESCINDED.

The case is REMANDED for redetermination of eligibility as of January 24, 2014, for a three-person household with an expected 2014 annual income of \$48,440.00.

Effective Date of this Decision: January 24, 2014

How this Decision Affects Your Eligibility

The preliminary determination on January 24, 2014, that you are eligible for Medicaid is RESCINDED. It no longer has any effect. All of the later notices of eligibility were based on it, so they no longer have any effect.

This Decision does not decide what your eligibility will be. It sends your case back to the Marketplace so that your eligibility can be redetermined.

The Marketplace will redetermine your eligibility using an expected 2014 income of \$48,440.00 and issue a new notice of eligibility determination.

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.

If you do not agree with this Decision, you have the right to appeal outside the Marketplace and may:

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).

- Submit an appeal request to the U.S. Department of Health and Human Services appeals entity within 30 days of the date of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c))

AND/OR

- Bring a lawsuit in state court in accordance with Article 78 of the New York Civil Practice Law and Rules within four months after the date of the Decision Date, which appears on the first page of this Decision.

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 preliminary eligibility determination of January 24, 2014, and the notices of eligibility determination dated April 29, 2014; April 30, 2014; May 2, 2014; May 3, 2014; May 6, 2014; and May 20, 2014 are RESCINDED.

This Decision does not decide what your eligibility will be. It sends your case back to the Marketplace so that your eligibility can be redetermined.

The case is REMANDED for redetermination of eligibility as of January 24, 2014, for a three-person household with an expected 2014 annual income of \$48,440.00.

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Legal Authority

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

A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]