



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

Notice of Decision

Decision Date: January 15, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000690

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On August 12, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's December 9, 2013 preliminary 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 notice.

Legal Authority

We are sending you this notice in accordance with 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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[REDACTED]
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Issue

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

Did the Marketplace properly determine that you were not eligible for Medicaid as of December 9, 2013?

Procedural History

The Marketplace received your application for health insurance with financial assistance on December 9, 2013. Your application was submitted by a Certified Application Counselor from Fidelis at your request.

On December 9, 2013, the Marketplace made a preliminary eligibility determination that, with an annual household income of \$0.00, you were eligible to enroll in a qualified health plan through the marketplace without financial assistance. The Marketplace did not issue a notice on that preliminary determination.

On May 27, 2014, you called the Marketplace's Account Review unit and appealed your December 9, 2013 preliminary eligibility determination.

On May 27, 2014, your eligibility was redetermined by the Marketplace. A notice issued on May 28, 2014 stated that, based on your household income of \$0.00, you were eligible for Medicaid effective May 1, 2014

On August 12, 2014, 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 supports the following findings of fact:

1. You are a United States Citizen.
2. You are not pregnant, have no tax dependents, are not a parent-caretaker, and not incarcerated.
3. On December 9, 2013, you were 42 years old.
4. You testified that on December 9, 2013 you had a monthly income of \$0.00. You did not have a job and you were not receiving monthly benefits from any state or federal programs.
5. You testified that on December 9, 2013, you did not have private insurance, Medicare Part A or B, or state-sponsored insurance.
6. You testified that you called Fidelis for assistance in completing an application for health insurance through the Marketplace.
7. You testified that on December 9, 2013, a Certified Application Counselor from Fidelis came to your house and completed a financial assistance application for health insurance on your behalf on his laptop computer.
8. You testified that the Certified Application Counselor told you that you were not eligible for financial assistance. You did not receive a written determination notice that explained why you were denied assistance, nor were you advised that you had a right to appeal the determination.
9. You testified that the Certified Application Counselor called his supervisor to confirm that you were not eligible for financial assistance. When the supervisor confirmed the determination, the Certified Application Counselor enrolled you in a Fidelis Platinum Plan.
10. You testified that in May you contacted the Marketplace Customer Service Unit because you were having difficulty affording the Fidelis Platinum Plan premium.
11. You testified that the Marketplace Customer Service Unit told you that your original determination was incorrect. The Marketplace redetermined

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your eligibility, and you were found eligible for Medicaid. Nothing in your application changed between December 2013 and May 2014.

12. You testified that you are seeking a Medicaid effective start date of January 1, 2014 because you paid full premium costs for your Fidelis Care Platinum Plan for the months of January 2014 through May 2014. You are seeking reimbursement from Fidelis for the insurance premiums you paid.

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

Applicable Law and Regulations

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 that is at or below 138% of the federal poverty level (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 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 2013 FPL, which is \$11,490.00 for a one-person household (79 Fed. Reg. 3593, 3593).

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits can be 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).

A person may be eligible for Medicaid reimbursement of health insurance premiums paid if the payment of those premiums is cost-effective and so reduces the cost of providing Medicaid services (see NYS Social Services Law § 367-a(b), 18 NYCRR § 360-7.5, GIS 02 MA/019). Cost-effectiveness may be determined by comparing what it would cost Medicaid to provide coverage to the cost of the premiums for the health insurance policy.

Legal Analysis

The only issue under review is whether, as of December 9, 2013, you qualified for Medicaid coverage to begin on January 1, 2014.

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According to the record, you are in a one-person household.

In order to be eligible for Medicaid through the Marketplace, you must meet certain nonfinancial criteria. According to the credible evidence of record, on December 9, 2013 you were a United States Citizen, a resident of New York State, 42 years old, not pregnant, not incarcerated, and not enrolled in Medicaid, and not enrolled or entitled to Medicare. Comparison of the December 9, 2013 and May 27, 2014 Marketplace applications reveals no material difference in information you provided regarding the non-financial factors for Medicaid eligibility.

In addition to meeting the non-financial criteria listed above, you also must have a household income that is no more than 138% of the current federal poverty level (FPL) to qualify for Medicaid. On December 9, 2013, the FPL for your household was \$11,490.00, so you would be eligible for Medicaid with an income no greater than \$15,857.00 (138% of \$11,490.00).

When your application was submitted on December 9, 2013, you attested to an income of \$0.00. You also credibly testified at the hearing that your income has been \$0.00 since that time.

Since the credible evidence of record does not provide support for the preliminary determination that you were not eligible for financial assistance through the Marketplace on December 9, 2013, the preliminary determination is **RESCINDED** and your case is **REMANDED** to the Marketplace for redetermination of your eligibility for financial assistance from January 1, 2014 to April 30, 2014.

Decision

The December 9, 2013 preliminary eligibility determination is **RESCINDED**.

The case is **REMANDED** to the Marketplace for a determination of your eligibility from January 1, 2014 to April 30, 2014 with an attested monthly income of \$0.00.

Effective Date of this Decision: January 15, 2015

How this Decision Affects Your Eligibility

This decision does not make a final decision on your eligibility on your December 9, 2013 Marketplace application. It rescinds (cancels) the December 9, 2013

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preliminary determination and directs the Marketplace to redetermine your eligibility on that application.

Please note that this decision has no effect on the May 28, 2014 eligibility determination, which states that you have Medicaid coverage on and after May 1, 2014.

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
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Summary

The December 9, 2013 preliminary eligibility determination is RESCINDED.

The case is REMANDED to the Marketplace for redetermination of your eligibility, using a one-person household with an attested monthly income of \$0.00, from January 1, 2014 to April 30, 2014.

This decision has no effect on the May 28, 2014 eligibility determination, which states that you have Medicaid coverage on and after May 1, 2014.

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]