



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

## Notice of Decision

Decision Date: September 26, 2014

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000704

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On July 8, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's June 4, 2014 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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NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000704

[REDACTED]  
[REDACTED]  
[REDACTED]

**Issue**

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

Did the Marketplace properly determine that you and your household were eligible for Medicaid as of June 4, 2014?

**Procedural History**

The Marketplace received your household’s application for health insurance on November 25, 2013.

The preliminary eligibility determination that was prepared that same day stated that you; your spouse, [REDACTED] were eligible to enroll in a Qualified Health Plan (QHP) and, at an attested income of \$38,560.00, eligible for \$832.00 in advance premium tax credit (APTC) per month, with cost-sharing reductions (CSR) if enrolled in a silver level plan. [REDACTED] was not eligible for financial assistance. A fifth family member, [REDACTED], was not seeking health insurance through the Marketplace at that time.

On December 10, 2013, your household’s eligibility was redetermined because [REDACTED] was now seeking health insurance through the Marketplace. A preliminary eligibility determination was prepared. That determination again stated that you, your spouse, and [REDACTED] were eligible to enroll in a QHP and, at an attested income of \$38,560.00, eligible for \$832.00 in APTC per month, with CSR if enrolled in a silver level plan. [REDACTED] was not eligible for financial assistance. [REDACTED] was found Medicaid eligible.

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On January 3, 2014, another preliminary eligibility determination was prepared. It indicated that you and your spouse were eligible to enroll in a QHP and were eligible for \$551.00 in APTC per month, with CSR if enrolled in a silver level plan. [REDACTED] were not eligible for financial assistance. [REDACTED] was found Medicaid eligible.

On January 5, 2014 and again on March 22, 2014, the Marketplace issued notices consistent with the January 3, 2014 preliminary determination made for [REDACTED]. The notices stated that [REDACTED] was not eligible for an advance premium tax credit because she was enrolled in an employer-sponsored plan that provided minimum essential coverage and that [REDACTED] was not eligible to receive tax credits because he was receiving public minimum essential coverage.

On February 16, 2014, the Marketplace issued a notice, consistent with the January 3, 2014 preliminary determination, that [REDACTED] remained eligible for Medicaid.

On April 16, 2014, a notice was issued that reflected the January 3, 2014 preliminary eligibility determination made for you and your spouse. That notice stated that you and your spouse were eligible to enroll in a QHP and, at an attested income of \$38,560.00, were eligible for \$551.00 in APTC per month, with CSR if you enrolled in a silver level plan.

On June 3, 2014, multiple preliminary determinations were prepared for the household. One of those preliminary determinations stated that you, your spouse, and your three children were eligible for Medicaid at an annual household income of \$34,810.00, which put the household at 124.72% of the Federal Poverty Level (FPL). The final preliminary determination notice prepared that day stated that the household members were eligible for Medicaid at an annual household income of \$56,570.00, which is 202.69% of the FPL.

On June 4, 2014, a single determination notice was issued. That notice indicated that you, your spouse, [REDACTED] would no longer qualify for Medicaid but that the coverage previously approved would continue for twelve continuous months from the date you were determined eligible. The notice does not specify the income that was used to reach the determination.

On June 9, 2014, you spoke to Marketplace Customer Service and appealed the March 8, 2014 eligibility determination on behalf of yourself, your spouse, [REDACTED].

On July 8, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and was closed at the end of the hearing.

## Findings of Fact

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

- 1) You live with your spouse and three children; you are all 19 years old or older.
- 2) Of the five household members, only you, your spouse, [REDACTED], and [REDACTED] are seeking health insurance coverage through the Marketplace at this time.
- 3) From November 25, 2013 until June 3, 2014, your application listed an expected yearly income for you of \$12,280.00. This amount included \$3,500.00 in earned income, \$3,780.00 in unemployment benefits, and additional income of \$5,000.00. Your husband listed an expected yearly income of \$26,280.00.
- 4) From February 1, 2014 until May 31, 2014, you and your husband were eligible for APTC and were enrolled in the Empire Silver Guided Access Plan.
- 5) You testified that on June 3, 2014 you opened your Marketplace account because [REDACTED] had aged out of Child Health Plus and you wanted to see if you could add him to your Empire Silver Guided Access Plan policy.
- 6) You testified that while you were reviewing your application that day, you decided to update your income information because you recently had begun a new job. You stopped collecting unemployment benefits when you began this new job, thus reducing the amount you expected to receive for the 2014 tax year.
- 7) You testified that after you lowered the amount of unemployment benefits on your application from \$3,780.00 to \$2,090.00 and before you were able to change your expected yearly income from \$12,280.00 to \$30,290.00, the Marketplace generated a preliminary eligibility determination based on an annual household income of \$34,810.00, which put you, your spouse, [REDACTED] into Medicaid.
- 8) You testified that you attempted to increase your household income amount multiple times that day, but no matter what number you entered, you and your household remained eligible for Medicaid.
- 9) You testified that on June 3, 2014, as soon as you realized you could not correct the Medicaid determination, you called the Marketplace for

assistance. Customer Service could not change the eligibility determination but advised you that you could appeal it.

- 10) You testified that you plan to file your 2014 income tax return with a tax filing status of Married Filing Jointly.
- 11) You testified that on your 2014 tax return, you expected to claim your three children, [REDACTED], as dependents.
- 12) You testified that [REDACTED] will not earn enough income during 2014 to be required to file their own tax returns.
- 13) You testified that as of June 3, 2014, your expected 2014 gross income is \$30,290.00. Your spouse's expected 2014 gross income is \$26,280.00.
- 14) You testified that you and the others in your household have received Medicaid insurance ID cards, but that no one in the household has used the Medicaid coverage.
- 15) You currently reside in Orange county.

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

## **Applicable Law and Regulations**

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 household income that is at or below 138% of the 2014 federal poverty level for the applicable family size (see 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

The 2014 FPL for a five-person household is \$27,910 (79 Fed. Reg. 3953). Therefore, taking the 5% disregard into account, the income standard for Medicaid benefits is a maximum of \$38,515.80 (138% of the 2014 FPL).

Most adults determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage offered through Medicaid Managed Care, even if the adult loses Medicaid eligibility because of any changes or updates they make to their

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Marketplace account. For example, even if income increases above the Medicaid limit allowed for the household size, the insured will remain covered under 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 (see 42 CFR § 435.916; N.Y. Soc. Serv. Law § 366(4)(c)).

## **Legal Analysis**

Currently at issue is the question of whether the Marketplace correctly found you and your household eligible for Medicaid as of June 4, 2014.

Until June 3, 2014, your application stated an annual household income of \$38,560.00. This amount included \$12,280.00, which was your expected income, and \$26,280.00, which was your spouse’s expected income. This put your household above the Medicaid income threshold.

To qualify for Medicaid coverage on June 3, 2014, your household would have had to meet all of the Medicaid criteria listed above, including having a household income no higher than \$38,516.00 (138% of \$27,910.00, the 2014 FPL for a five-person household). The evidence you provided during your hearing credibly establishes that your household’s expected income as of June 3, 2014 was \$56,570.00.

On June 3, 2014, you attempted to update your application to reflect the overall increase in expected income due to your transition from unemployment benefits to wages for your new job. After you reduced the unemployment benefits but before you input the new wages, the system generated a preliminary determination that your family qualified for Medicaid.

In conversing with the Marketplace’s Customer Service Unit, and again in providing sworn testimony before a Hearing Officer, you have attempted to resolve this problem.

The June 4, 2014 eligibility determination should have been made for a five-person household with an expected 2014 income of \$56,570.00.

Since your June 4, 2014 eligibility determination was based on defective income information, it is not supported by the record and is **RESCINDED**.

## **Decision**

The eligibility determination notice dated June 4, 2014 is RESCINDED.

The case is REMANDED to the Marketplace for redetermination of the eligibility of [REDACTED] as of June 4, 2014, using a five-person household and an expected 2014 household income of \$56,570.00.

**Effective Date of this Decision:** September 26, 2014

## **How this Decision Affects Your Eligibility**

This decision does not make a final determination on your eligibility. It rescinds (cancels) the June 4, 2014 determination of Medicaid eligibility and directs the Marketplace to redetermine eligibility based on the corrected information that you have provided.

## **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:

- Make 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 the Decision (45 CFR § 155.520[c]).

AND/OR

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

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## **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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- By fax: 1-855-900-5557

## **Summary**

The eligibility determination notice dated June 4, 2014 is RESCINDED.

The case is REMANDED to the Marketplace for redetermination of the eligibility of [REDACTED] as of June 4, 2014 using a five-person household and an expected 2014 household income of \$56,570.00.

This decision does not make a final determination on your eligibility. It rescinds (cancels) the June 4, 2014 determination of Medicaid eligibility and directs the Marketplace to redetermine eligibility based on the corrected information that you have provided

## **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]