



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

Notice of Decision

Decision Date: September 15, 2014

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000000724

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

Dear [REDACTED],

On July 17, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's March 26, 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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[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 are eligible for Medicaid as of March 26, 2014?

Procedural History

The Marketplace first received your Non-Financial application for health insurance on October 4, 2013.

On October 7, 2013, your Marketplace application was modified to request financial assistance and to report an expected yearly income of \$13,500.00. Your application indicated that you had health insurance with [REDACTED] since October 1, 2010. This information on other coverage carried through subsequent versions of your application.

On October 8, 2013, your application was changed back to a Non-Financial Application.

On October 21, 2013, the Marketplace issued eligibility determination on your October 4, 2013 application. That notice stated that you were eligible to enroll in a qualified health plan (QHP) through the Marketplace.

On December 2, 2013, your application was changed to request financial assistance and to report an expected yearly income of \$13,200.00.

On December 8, 2013, your application was changed to indicate an expected yearly income of \$13,000.00. The Marketplace displayed a preliminary eligibility determination that you were eligible for Medicaid.

On December 15, 2013, your application was changed to indicate an expected yearly income of \$16,000.00. The Marketplace displayed a preliminary determination that you were eligible for advance premium tax credit (APTC) and cost-sharing reductions (CSR).

On March 25, 2014, your application was changed six times to indicate expected yearly incomes ranging from \$16,000.00 to \$40,000.00.

On March 26, 2014, the Marketplace issued six eligibility determinations. One notice stated that you were eligible for Medicaid, and the other five stated that you remained eligible for Medicaid.

On May 1, 2014, your application was changed three times to indicate expected yearly incomes ranging from \$18,000.00 to \$46,700.00.

On May 2, 2014, the Marketplace issued an eligibility determination that you no longer qualified for Medicaid but that your existing Medicaid coverage would continue until February 28, 2015.

On June 19, 2014, your application was changed to indicate an expected yearly income of \$16,300.00.

On June 20, 2014, an eligibility determination was issued. It, like the May 2, 2014 notice, stated that you no longer qualified for Medicaid but that your existing Medicaid coverage would continue until February 28, 2015.

On June 23, 2014, you spoke with the Marketplace's Customer Service unit and appealed that determination.

On July 10, 2014, your application was changed to indicate an expected yearly income of \$19,730.00

On July 11, 2014, an eligibility determination was issued. It, like the notices of May 2, 2014 and June 20, 2014, stated that you no longer qualified for Medicaid but that your existing Medicaid coverage would continue until February 28, 2015.

On July 17, 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) Since October 1, 2010, you have had insurance outside of the Marketplace from a company called [REDACTED]. You said that you will not end this insurance until you know that your appeal in the Marketplace has been resolved.
- 2) You said you want to purchase insurance through the Marketplace.
- 3) You said that on December 15, 2013, when you became eligible for APTC and CSR, you browsed the plans that were available to you and selected one; however, you did not submit your plan selection to the Marketplace.
- 4) You said that you never had income low enough to qualify you for Medicaid.
- 5) You said that you do not remember entering in any income information into your application from October or December and maintained that the amounts of \$13,500.00, \$13,000.00, \$13,200.00, and \$16,000.00 were the result of a computer glitch or technical error.
- 6) You said that you did not enter in income information in your account at any point on March 25, 2014. You said that you remember having technical problems that day and maintained that the varying amounts of income from \$16,000.00 to \$40,000.00 were the result of a computer glitch or other technical error.
- 7) Information in your online account shows that the changes in income from October 7, 2013 to June 19, 2014 were performed by a person using the electronic signature of [REDACTED]
- 8) Information in your account shows that on July 10, 2014 your expected yearly income amount was changed to \$19,730.00.
- 9) You said that you lost your job in March and began to collect unemployment benefits at the beginning of April.
- 10) You said that before taxes, you receive \$405.00 in unemployment benefits each week.
- 11) You said that between the beginning of January and the end of March you earned \$9,200.00

12) You are the only person in your household.

13) You have a tax filing status of Single.

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

Applicable Law and Regulations

Medicaid is provided through the Marketplace to adults who meet all of the following criteria: (1) are age 19 or older and under age 65; (2) are not pregnant; (3) are not entitled to or enrolled for Medicare benefits; (4) are not otherwise eligible for and enrolled for mandatory coverage under Medicaid; and (5) have household income that is at or below 138% of the federal poverty level, including the 5% disregard for household income where applicable (42 CFR § 435.119(b); 42 CFR § 435.603(d)(1)).

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 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. Coverage during this 12-month period is referred to as “continuous coverage” and it begins 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)).

People who receive or are eligible for Medicaid are not eligible for an Advance Premium Tax Credit (APTC) since they have, or will soon have, active coverage in the system. They will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, moving out of state, failing to provide a valid social security number, or having third party health insurance (N.Y. Soc. Serv. Law § 366(4)(c)).

The 2014 federal poverty level for a one-person household is \$11,670.00 (79 Fed. Reg. 3593).

Legal Analysis

Currently at issue is the question of whether the Marketplace correctly found you eligible for Medicaid as of March 26, 2014, and therefore eligible for continuous coverage in subsequent determinations.

To be eligible for Medicaid, you would have had to meet all of the criteria listed above, including having a household income no higher than 138% of the FPL.

The March 26, 2014 eligibility determinations were based on information in your application as of March 25, 2014. To be eligible for Medicaid, your income could be no higher than 138% of the federal poverty level. Since the 2014 poverty level is \$11,670.00, the maximum income level at which you could qualify for Medicaid was \$16,105.00.

It is not possible to determine your income from the March 25, 2014 applications, because they contain income figures ranging from \$16,000.00 to \$40,000.00. Applications for May 5, 2014, the next time new information was provided, are equally unhelpful, because the income entries for that day range from \$18,000.00 to \$46,700.00.

Since the income information in your various applications is conflicting and unreliable, it cannot provide a basis for any reliable eligibility determination. Since the eligibility determinations issued on March 26, 2014; May 2, 2014; and June 20, 2014 lack a credible basis, they must be RESCINDED.

During your hearing, you did provide credible evidence that permits a reasonable estimate of your expected 2014 income. You testified that you earned \$9,200.00 between the beginning of January and the end of March, when you separated from employment. You further testified that you have been receiving unemployment benefits since the beginning of April at a rate of \$405.00 each week. Twenty-six weeks of unemployment benefits (the current maximum) plus the \$9,200.00 you earned yields an expected 2014 income of \$19,730.00.

Since the record contains credible evidence of your expected 2014 income, your application is now complete and the Marketplace can make an eligibility determination. The case will be REMANDED to the Marketplace to make an eligibility determination for a one-person household with an expected 2014 income of \$19,730.00.

Decision

The eligibility determination notices dated March 26, 2014; May 2, 2014; June 20, 2014; and July 11, 2014 are RESCINDED.

The case is REMANDED to the Marketplace to make an eligibility determination for a one-person household with an expected 2014 income of \$19,730.00.

Effective Date of this Decision: September 8, 2014

How this Decision Affects Your Eligibility

The decisions that you are Medicaid eligible were not based on credible information, so they are no longer in effect.

The Marketplace will process your application for health insurance, with financial assistance, using a one-person household with an expected 2014 income of \$19,730.00.

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.

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 eligibility determination notices dated March 26, 2014; May 2, 2014; June 20, 2014; and July 11, 2014 are RESCINDED.

The case is REMANDED to the Marketplace to make an eligibility determination. The Marketplace will process your application for health insurance, with financial assistance, using a one-person household with an expected 2014 income of \$19,730.00.

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]