



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

## Notice of Decision

Decision Date: January 14, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000000758

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

Dear [REDACTED],

On August 19, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's March 4, 2014 and July 24, 2014 eligibility determinations.

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 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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## Issues

The issues presented for review by the Appeals Unit of the NY State of Health are:

Were the March 4, 2014 and July 24, 2014 eligibility determinations subject to appeal as of July 24, 2014?

Does the March 4, 2014 determination properly state that you, your spouse, and your daughter were eligible for Medicaid based on your December 23, 2013 application?

Does the July 24, 2014 determination properly state that your daughter remained Medicaid eligible as of July 2014?

## Procedural History

The Marketplace initially received your application on December 23, 2013. At that time, the Marketplace made preliminary determination that you, your spouse, and your daughter were eligible for Medicaid based on a household income of \$0.00.

On February 8, 2014, the Marketplace notified you that additional information would be required before an eligibility determination could be issued. The Marketplace requested such information be provided by February 25, 2014.

On February 25, 2014, you uploaded two documents to the Marketplace, which included: (1) a letter in which you state, among other things, that you are unemployed; that your unemployment benefits ended on January 1, 2014; that 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).

you received \$167,726.26 (gross) from your employer during 2013; and that your current income is \$0.00 and (2) a copy of your 1099-G Form (Statement of Recipients Certain Government Payments) stating that you received a total of \$17,480.75 in unemployment compensation during 2013.

On March 4, 2014, the Marketplace issued a notice of eligibility determination stating that, with a household income of \$0.00, all three members of your household were eligible for Medicaid. With regard to your daughter, it stated: "Because your household income of \$0.00 is at or below the allowable income limit of \$44,132.00, you are eligible for Medicaid." It also stated that her Medicaid coverage would begin on January 1, 2014.

On July 23, 2014, the Marketplace received an updated application, in which you requested financial assistance and attested to an expected yearly income of \$48,292.76.

On July 24, 2014, the Marketplace issued a notice of eligibility redetermination stating that your daughter was no longer eligible for Medicaid but that her existing coverage would continue. The Marketplace also issued a notice that you and your spouse were eligible to enroll in a qualified health plan with up to \$411.00 per month of advance premium tax credit and, if you selected a silver-level plan, cost-sharing reductions, all pending the receipt of documentation to verify your income.

On July 24, 2014, you spoke with the Marketplace Account Review Unit. You appealed the March 4, 2014 eligibility determination and your daughter's July 24, 2014 eligibility determination.

On August 19, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and remained open because the Hearing Officer directed you to provide the following documents to corroborate your testimony: (1) a paystub from [REDACTED] indicating the lump-sum severance payment you received on December 13, 2013, and (2) a paystub from [REDACTED] stating that you were paid \$48,929.76 in a "WAP" (wealth accumulation plan) distribution on July 15, 2014.

The record was developed during the hearing and is now closed.

## **Findings of Fact**

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

- 1) You are married, and live with your spouse and your infant daughter (NYSOH Exhibit A, pp. 1-5; Appellant's testimony 8/19/14).

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- 2) Your daughter was born on March 31, 2013 (NYSOH Exhibit A, pg 4; Appellant's testimony 8/19/14).
- 3) You plan to file a U.S. Income Tax return for the 2014 tax year, file jointly with your spouse, and claim only your daughter as a dependent (NYSOH Exhibit A, pp. 1; Appellant's testimony 8/19/14).
- 4) You were employed by [REDACTED] from 2010 until February 2013 (Appellant's testimony 8/19/14).
- 5) In August 2013, you and your spouse enrolled as full-time students at the [REDACTED] (Appellant testimony 8/19/14).
- 6) You received \$17,480.75 in unemployment compensation during 2013 (1099-G Form – Statement for Recipients of Certain Government Payments (2013); Appellant testimony 8/19/14).
- 7) On December 23, 2013, you a submitted Marketplace application stating that your expected yearly income for 2014 would be a net loss of \$1,472.00, which consisted of \$8,528.00 in unemployment benefits and \$10,000.00 in deductions (NYSOH Exhibit A, p. 2).
- 8) On March 3, 2014, you provided a letter to the Marketplace stating that your unemployment benefits ended on January 1, 2014.
- 9) On March 4, 2014, the Marketplace issued a notice of eligibility determination based on your December 23, 2013 application. You, your spouse, and your daughter were found to be Medicaid eligible as of January 1, 2014.
- 10) On July 15, 2014, you received \$48,292.76 from a deferred compensation program (Appellant's Exhibit 1, p. 1; Appellant's testimony).
- 11) On July 23, 2014, you modified your application to request financial assistance and to attest that your expected income had increased to \$48,292.76 as a result of receiving a "one-time, deferred compensation payment" on July 15, 2014 (NYSOH Exhibit B, p. 2; Appellant testimony 8/19/14).

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

## **Applicable Law and Regulations**

### Appeal Timeliness

The Marketplace “appeals entity must allow an applicant or enrollee to request an appeal within (1) 90 days of the date of the notice of eligibility determination; or (2) A timeframe consistent with the state Medicaid agency’s requirement for submitting fair hearing requests, provided that timeframe is no less than 30 days, measured from the date of the notice of eligibility determination” (45 CFR § 155.520(b)). In New York State, the Medicaid agency permits submission of fair hearing requests within 60 days of the date of the notice of eligibility determination (N.Y. Soc. Serv. Law § 22(4)(a)), and this timeframe has been adopted by the Marketplace.

### Medicaid

Infants under the age of one are eligible for Medicaid with household income up to 223% of the federal poverty level (FPL) for the applicable family size (NY Social Services Law § 366(b)(2); 13 ADM-03 - Medicaid Eligibility Changes under the Affordable Care Act (ACA) of 2010, 9/25/13; see *also* 42 CFR § 457.310(b)(1)(i)).

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

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 2014 FPL, which is \$19,530.00, or \$1,627.50 per month, for a three-person household (79 Fed. Reg. 3593, 3593).

All Medicaid-eligible children under the age of nineteen are provided with 12 months of continuous coverage from the date of commencement, even if the household’s income exceeds eligibility levels during that period (NY Soc. Serv. Law § 366(4)(b)(3)(i)).

For the purposes of determining Medicaid eligibility, income received as a lump sum is counted only in the month it is received (42 CFR § 435.603(e)).

## Legal Analysis

On July 24, 2014, you spoke with the Marketplace's Account Review unit and appealed the March 4, 2014 eligibility determination and your daughter's July 24, 2014 eligibility determination.

Eligibility determinations may be appealed within 60 days of issue. Since the March 4, 2014 determination was issued more than 60 days before July 24, 2014, the appeal was untimely as to that determination and is dismissed. The March 4, 2014 eligibility determination continues in effect, and the Appeals Unit does not reach the question of your Medicaid eligibility based on your December 23, 2013 application.

On July 24, 2014, the Marketplace issued a notice of eligibility redetermination stating that said your daughter no longer qualified for Medicaid but that her coverage would continue until February 28, 2015. The appeal is timely as to that determination.

Your infant daughter resides with her parents, who plan to file their 2014 federal tax return as married filing jointly and plan to claim her as a dependent. Therefore, she is in a three-person household.

The July 24, 2014 eligibility determination is based on your July 23, 2014 application. According to the credible evidence of record, you received a payment of \$48,292.76 in deferred compensation on July 15, 2014 and had no other income at that time. Therefore, your household income for July 2014 is \$48,292.76.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. Infants under the age of one are eligible for Medicaid with household income up to 223% of the FPL for the applicable family size. During July 2014, the FPL was \$19,530.00, or \$1,627.50 per month, for a three-person household. Therefore, your daughter would not have qualified for Medicaid during July 2014 because the \$48,292.76 household income for that month exceeded the monthly income limit for Medicaid eligibility.

However, all Medicaid-eligible children under the age of nineteen are provided with 12 months of continuous coverage from the date of commencement, even if the household's income exceeds eligibility levels during that period (NY Soc. Serv. Law § 366(4)(b)(3)(i)). Since, under the March 4, 2014 determination, your daughter was already Medicaid eligible, the July 24, 2014 determination properly stated that her coverage continued at that time.







**A Copy of this Decision Has Been Provided To:**

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