



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: AP000000000766

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On August 21, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 24, 2014; July 25, 2014; and July 26, 2014 eligibility determinations.

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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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 eligible for Medicaid as of July 24, 2014?

Procedural History

The Marketplace received your original application for health insurance on December 10, 2013. A preliminary eligibility determination was made and you were found eligible for \$221.00 per month in advance premium tax credit (APTC), as well as for cost-sharing reductions (CSR) provided that you enrolled in a silver level qualified health plan (QHP). This determination was based on a household of one person and an annual household income of \$25,000.00.

On April 14, 2014, you added your son and your daughter to your Marketplace application as dependents; you requested coverage for your daughter but not your son. Your daughter's income was \$10,400.00; you noted on your application that she would be filing taxes.

On April 14, 2014 and on April 15, 2014 your daughter's annual income amount was adjusted on your application from \$10,400.00 to \$9,100.00 and then to \$7,800.00. Your annual income remained the same at \$25,000.00.

In a notice dated April 15, 2014, the Marketplace advised you that your daughter was eligible to enroll in a QHP through the Marketplace based on a household

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income of \$32,800.00. The notice also stated that you were not eligible to receive APTC because you were receiving public minimum essential coverage.

On April 19, 2014, an eligibility notice was issued that stated you were eligible to receive up to \$233.00 monthly of APTC and that you continued to remain eligible for CSR. This determination was based on a household income of \$32,800.00.

On June 3, 2014, your daughter's annual income was changed again on your application. Her income was lowered to \$1,000.00. Your annual income remained the same at \$25,000.00.

On July 24, 2014; July 25, 2014; and July 26, 2014, eligibility determination notices were issued based on the June 3, 2014 application. Those notices stated that, because your household income of \$25,000.00 was at or below the allowable income limit of \$27,310.00, you and your daughter were eligible for Medicaid.

On July 29, 2014, your daughter's annual income was changed again on your application. Her income was increased to \$4,800.00.

On July 29, 2014, you called the Marketplace's Customer Service unit and appealed the July 24, 2014; July 25, 2014; and July 26, 2014 eligibility determinations.

On August 21, 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 testified that you plan to file your 2014 taxes as Head of Household.
2. Your application currently states that you have two children and will claim both as dependents.
3. You are seeking health insurance only for yourself and your daughter.
4. You testified and provided evidence that your son is incarcerated and will remain so until at least 2015.
5. You testified that before your son was incarcerated, you claimed him as a dependent on your 2013 tax return.

6. You testified that you included your son on your Marketplace application because you were asked the question "Who did you claim as a dependent on your 2013 tax return?"
7. You testified that because your son has not lived with you during the 2014 tax year, you are not going to claim him on your 2014 income tax return.
8. You testified that you still plan on claiming your daughter for the 2014 tax year because she was a full-time student for at least half of the year.
9. You testified that your gross annual income for 2014 is \$25,000.00.
10. You testified that your daughter's income fluctuated in your application because she was a student and stopped working part time.
11. You testified that during 2014 your daughter has worked for \$11.00 per hour, twenty hours each week, for eight weeks.
12. You testified and provided proof that your daughter has recently obtained a new job at which her gross weekly pay is \$250.00 per week.
13. You testified that your daughter had been working at her new job for six weeks as of the date of the hearing.
14. You are appealing only the Medicaid eligibility determination as it pertains to you.
15. You currently reside in Nassau county.

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 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)).

A person who expects to file a tax return and is not claimed as a dependent by

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another tax filer has a household that consists of herself and anyone she expects to claim as a tax dependent (42 CFR § 435.603(f)(1)).

A tax filer's household income includes the modified adjusted gross income (MAGI) of all the individuals in the taxpayer's household who are required to file a federal tax return for the taxable year (26 CFR § 1.36B-1(e)(1)). The MAGI-based income of an individual who is included in the household of his or her natural, adopted or step parent and is not expected to be required to file a tax return under section 6012(a)(1) of the Code for the taxable year in which eligibility for Medicaid is being determined, is not included in household income whether or not the individual files a tax return (42 CFR § 435.603(d)(2)(i)).

For the 2014 tax year, a dependent who has a yearly gross earned income greater than \$6,200.00 must file a tax return (see IRS publication IR-2013-87).

The 2014 Federal Poverty Level (FPL) for a two-person household is \$15,730.00. The 2014 FPL for a three-person household is \$19,790.00.

Legal Analysis

The only issue on appeal is whether you were eligible for Medicaid when the Marketplace determined your eligibility during July.

When the Marketplace made the determinations set out in the July 24, 2014; July 25, 2014; and July 26, 2014 notices, it based them on a three-person household. This is evident by the fact that those eligibility determinations stated the income limit to be eligible for Medicaid was \$27,310.00, which is 138% of the three-person household 2014 FPL of \$19,790.00.

However, you credibly testified, and provided evidence, that you are not claiming your son on your 2014 tax return because he will be incarcerated for the entire year. You included him on the application because the Marketplace asked you a question about your 2013 income tax return.

The credible evidence indicates that during the 2014 tax year your household will consist of two people: you and your daughter, whom you will claim as a dependent. When the July eligibility determination notices were issued, you indicated that your daughter would not be filing a tax return, so her income would not have been counted towards the household's total income.

Therefore, at the time of the July 24, 2014; July 25, 2014; and July 26, 2014 eligibility determinations, your eligibility should have been determined for a two-person household with a household income of \$25,000.00, instead of a three-person household. The July determinations were therefore defective as they were based on incorrect information.

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Since your household income was over the limit allowable for Medicaid for a two-person household at the time, the July 24, 2014; July 25, 2014; and July 26, 2014 eligibility determinations lack support in the record and are RESCINDED.

Therefore, your case is REMANDED back to the Marketplace for a redetermination of eligibility based on your June 3, 2014 application, which listed a household income of \$25,000.00, but with the correct household size of two.

Decision

The eligibility determination notices issued on July 24, 2014, July 25, 2014, and July 26, 2014 are RESCINDED.

Your case is REMANDED to the Marketplace for a redetermination of eligibility based on your June 3, 2014 application, which listed a household income of \$25,000.00, but with the correct household size of two in Nassau County.

Effective Date of this Decision: September 26, 2014

How this Decision Affects Your Eligibility

The eligibility determination notices issued on July 24, 2014; July 25, 2014; and July 26, 2014 are RESCINDED.

Your case has been sent back to the Marketplace for a redetermination of your eligibility for financial assistance based on the updated information you provided to us during your hearing. Your eligibility will be redetermined based on your June 3, 2014 application, which listed a household income of \$25,000.00, but with the correct household size of two in Nassau County. Once a redetermination has been made, the Marketplace will issue you a redetermination notice which will contain further information.

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:

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

Summary

The eligibility determination notices issued on July 24, 2014; July 25, 2014; and July 26, 2014 are RESCINDED.

Your case is REMANDED to the Marketplace for a redetermination of eligibility based on your June 3, 2014 application, which listed a household income of \$25,000.00, but with the correct household size of two in Nassau County.

Legal Authority

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

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A Copy of this Decision Has Been Provided To:

[REDACTED]
[REDACTED]
[REDACTED]