



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

Notice of Decision

Decision Date: December 31, 2014

[REDACTED]
Appeal Identification Number: AP000000000890

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
Dear [REDACTED],

On September 30, 2014, you and your Authorized Representative appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's August 2, 2014 and August 26, 2014 eligibility redeterminations.

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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DEPARTMENT OF HEALTH
P.O. Box 11729
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Decision

[REDACTED]

[REDACTED]
Appeal Identification Number: AP000000000890

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

Issues

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

Did the Marketplace properly determine that [REDACTED] and his spouse, [REDACTED], were eligible for Medicaid as of August 1, 2014?

Did the Marketplace properly determine that [REDACTED] and his spouse, [REDACTED], were eligible for Medicaid under “continuous coverage” as of August 25, 2014?

Procedural History

You applied for health insurance through the Marketplace on July 22, 2014 and indicated on your application that you expected income of \$34,400.00 during 2014.

On July 23, 2014, the Marketplace sent a letter stating that you and your spouse were eligible to enroll in a qualified health plan (QHP) and were eligible to receive up to \$503.00 of advanced premium tax credit (APTC). You were also eligible to receive cost-sharing reductions (CSR).

You modified your application on July 23, 2014 to reflect your expected yearly income for 2014 would be \$10,530.00, which consisted solely of unemployment benefits.

That same day, you uploaded a letter from your former employer, dated June 26, 2014, stating that “your employment will terminate close of business on June 27, 2014.”

On July 24, 2014, the Marketplace sent a letter stating that, based on your July 23, 2014 application for health insurance, more information would be needed before an eligibility determination could be issued. Such information was to be provided to the Marketplace by August 10, 2014.

On August 1, 2014, you uploaded to the Marketplace a copy of your Unemployment Insurance Monetary Benefit Determination letter, issued to you on July 24, 2014, which awarded you \$405.00 per week beginning July 21, 2014. That same day, the Marketplace verified this document as valid proof of your attested income.

On August 2, 2014, the Marketplace issued an eligibility redetermination in your case. It found that you and your spouse were eligible for Medicaid, with a coverage start date of August 1, 2014. This eligibility redetermination was based on your stated expected annual household income of \$10,530.00.

On August 25, 2014, your application was modified several times. Such modifications included sequential increases to your spouse’s expected yearly income from \$0.00 to \$12,800.04, \$27,999.96, and \$39,999.96.

On August 25, 2014, the Marketplace prepared several preliminary eligibility redeterminations based on your August 25, 2014 application. In each case, the Marketplace indicated that while you and your spouse were no longer Medicaid eligible, your coverage under Medicaid would continue until July 31, 2015.

On August 25, 2014, you spoke with the Marketplace's Account Review unit and appealed that determination.

The Marketplace sent you a notice of eligibility redetermination on August 26, 2014, the findings of which were entirely consistent with the August 25, 2014 preliminary redeterminations.

On September 30, 2014, you had a telephone hearing with a Hearing Officer from the Marketplace’s Appeals Unit. [REDACTED], your Authorized Representative, also attended the hearing. The record was developed during the hearing and remained open to provide you an opportunity to submit additional evidence for your case. The record was to be closed 15 days after the hearing date, or upon the receipt of the additional evidence, whichever occurred earlier.

Between September 30, 2014 and October 2, 2014, you provided to the Appeals Unit through your Marketplace online account (1) a paystub from your former employer for the pay period from June 21, 2014 to June 27, 2014 and (2) a

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printout of the Official Record of Benefit Payment History from Unemployment Insurance Benefits Online for the benefit year July 21, 2014 to July 26, 2015. The record was closed on October 2, 2014.

Findings of Fact

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

- 1) You are married and expect to file a U.S. Income Tax return for 2014 as “married, filing jointly” and claim no dependents.
- 2) You are seeking insurance through the Marketplace for only yourself and your spouse.
- 3) You reside in New York County, New York.
- 4) Your employment with [REDACTED] terminated as of June 27, 2014.
- 5) During your employment with [REDACTED] in 2014, you earned a total of \$27,117.92.
- 6) In your application of July 22, 2014, you indicated that your expected annual earnings were \$36,400.00.
- 7) After your employment with [REDACTED] ended, you filed for unemployment benefits and were determined eligible to receive up to \$405.00 per week beginning July 21, 2014. However, as of September 30, 2014, your claim was still in “pending” status, and you had not yet received any payments on your claim.
- 8) You and your spouse did not receive any income between July 2014 and September 2014.
- 9) You testified that you applied to the Marketplace when you did because you did not realize that, under the terms of your union contract, your employer-sponsored health insurance did not end immediately upon your separation from [REDACTED].
- 10) You designated your daughter, [REDACTED], as your Authorized Representative at the time of the hearing. As an Authorized Representative, your daughter testified on your behalf.

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

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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)).

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 \$15,730.00 for a two-person household (79 Fed. Reg. 3593, 3593).

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 by the US Department of Health and Human Services, March 19, 2014).

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. 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 (1) whether the Marketplace correctly found you and your spouse eligible for Medicaid as of August 2, 2014, and, based on such a finding, (2) whether you and your spouse properly remained eligible for Medicaid coverage as of August 26, 2014.

Of the eligibility requirements listed above for Medicaid, the only requirement currently at issue is the income requirement.

Medicaid can be provided through the Marketplace to adults between the ages of 19 and 65 who meet the non-financial requirements and have a household

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modified adjusted gross income that is at or below 138% of the FPL for the applicable family size.

There are two people in your household: you and your spouse. You expect to file your 2014 U.S. Income Tax return as “married, filing jointly” and claim no dependents.

As of July 23, 2014, when you modified your application to indicate income of \$10,530.00, the relevant FPL was \$15,730.00 for a two-person household. This equals 66.94% of the FPL. Therefore, in the August 2, 2014 eligibility determination, the Marketplace properly found you to be eligible for Medicaid on an expected annual income basis.

However, you credibly testified during the hearing, and the record reflects that, as of your July 23, 2014 application to the Marketplace, your expected income was actually \$37,647.92, which was comprised of (1) \$27,117.92 in income earned from Mautner during 2014 until your termination on June 27, 2014 and (2) \$10,530.00 in expected unemployment benefits beginning approximately on July 21, 2014; at the time, you did not know that your application for unemployment benefits would be pended without payments being made.

With annual earnings of \$37,647.92, you would have earned well in excess of 138% of the FPL; therefore, you would not be eligible for Medicaid based on your purported annual earnings.

However, you testified further, and provided evidence after the hearing, that after having been terminated from Mautner on June 27, 2014, you received no income relating to your July 21, 2014 claim from unemployment benefits because your claim remained in a “pending” status. As a result, your monthly income during the months of July 2014 through September 2014 was \$0.00.

Since your income during the month of August 2014 was \$0.00, or 0% of the FPL, you continued to be eligible for Medicaid on the basis of your monthly income throughout August 2014.

Further, since you and your spouse were correctly determined eligible for Medicaid as of August 2, 2014, that coverage continues for 12 months from your coverage start date, which was August 1, 2014. No evidence has been provided to support a finding that you fall within any exception to the continuous coverage policy. Accordingly, based upon a review of the record, we find there is enough evidence that the August 26, 2014 eligibility determination finding you and your spouse eligible for Medicaid under continuous coverage was correct when issued. It is therefore **AFFIRMED**.

Decision

The August 2, 2014 and August 26, 2014 eligibility determinations are AFFIRMED.

Effective Date of this Decision: December 31, 2014

How this Decision Affects Your Eligibility

You and your spouse remain eligible for Medicaid coverage, with a coverage start date of August 1, 2014.

Please note that nothing in this decision will affect your current coverage under your employer-sponsored health insurance. However, if you do elect to use your Medicaid benefits while covered by such a plan, your Medicaid plan may seek reimbursement for such amounts paid while you were simultaneously covered by your employer-sponsored health insurance.

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):

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- By fax: 1-855-900-5557

Summary

The August 2, 2014 and August 26, 2014 eligibility determinations are **AFFIRMED**.

You and your spouse remain eligible for Medicaid coverage, with a coverage start date of August 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]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]