



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

Notice of Decision

Decision Date: January 20, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001043

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On October 27, 2014, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's October 7, 2014 preliminary 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 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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Issues

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

Did the Marketplace properly determine that you were eligible for Medicaid as of October 7, 2014?

Procedural History

On December 4, 2013, the Marketplace received your initial application and responded by requesting additional information. You submitted additional applications and documents between December 2013 and April 2014, and the Marketplace responded with determinations approving you for an advance premium tax credit at various levels, depending on the household income indicated on the different applications. On each of these applications, you attested to an expected annual income of \$10,400.00, \$16,900.00, or \$22,100.00.

On April 17, 2014, the Marketplace issued a notice of eligibility determination stating that based on a household income of \$16,900.00, you were eligible to enroll in a qualified health plan with up to \$324.00 in advance premium tax credit per month and cost-sharing reductions.

On September 25, 2014, your Marketplace application was modified again. On September 26, 2014, the Marketplace issued a notice of eligibility determination stating that you were eligible to enroll in a qualified health plan but ineligible for an advance premium tax credit because you were already enrolled in or eligible for minimum value employer sponsored health insurance and ineligible for cost-

sharing reductions because you were ineligible for the advance premium tax credit.

On October 7, 2014, you spoke to the Marketplace Customer Service Unit and your application was resubmitted three times. The Marketplace made three preliminary redeterminations. The first, using an annual household income of \$14,540.00, stated that you were eligible for Medicaid. The second and third, using an annual household income to \$17,415.00, also said that you were eligible for Medicaid.

On October 7, 2014, you also spoke to the Marketplace's Account Review Unit and submitted an appeal request.

On October 27, 2014, you appeared for the scheduled telephone hearing. Testimony was taken at the hearing. The record was held open until November 3, 2014 to allow you to submit additional documentation.

On November 28, 2014, the Marketplace issued a notice of eligibility determination on your October 7, 2014 application. It states that you are no longer eligible for Medicaid but that your coverage will continue until September 30, 2014.

On October 30, 2014, you submitted additional income documentation consisting of a total of 20 pages, including the cover sheet. This additional documentation included both earnings statements and paychecks from [REDACTED]. The evidence was marked collectively as Appellant's Exhibit B, was made part of the record, and the record was closed. The record is now complete and closed.

Findings of Fact

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

- 1) You plan to file your 2014 federal income tax return as Single and claim no dependents.
- 2) You testified that you have been eligible for an advance premium tax credit and cost-sharing reductions since March 2014 and enrolled in a qualified health plan since April 2014.
- 3) You testified that you were employed at [REDACTED] from January 1, 2014 until August 12, 2014.
- 4) According to a written statement from the owner of [REDACTED], you earned a weekly salary of \$325.00 (Appellant Exhibit B).

- 5) You testified that you began working at [REDACTED] on September 2, 2014.
- 6) You testified that on October 7, 2014, you spoke with the Marketplace to update your application to reflect the increase in your expected income due to your transition from [REDACTED]. The Marketplace made a preliminary determination that you qualified for Medicaid effective October 1, 2014, based on an expected yearly income of \$14,540.00. You testified that Customer Service Unit immediately corrected your expected yearly to \$17,415.00, but you remained Medicaid eligible in the Marketplace system.
- 7) On October 30, 2014, you submitted copies of Earnings Statements from [REDACTED] with check dates of October 10, October 17, October 24, and October 31, 2014. Each Earnings Statement indicates that you had gross earnings of \$345.00 and received net pay of \$273.03 on a weekly basis (Appellant's Exhibit B).
- 8) On October 30, 2014, you submitted copies of paychecks from [REDACTED] with check dates of September 19; September 26; October 3; and October 24, 2014. Each paycheck indicates that you received net pay of \$273.03 from [REDACTED] on a weekly basis (Appellant's Exhibit B).
- 9) According to your October 7, 2014 Marketplace application, your 2014 expected income is \$17,415.00. You expect \$17,415.00 in earned income in 2014.

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

Applicable Law and Regulations

Advance Premium Tax Credit

People who use the advance premium tax credit to help pay health insurance premiums must file a federal tax return and reconcile their expected income (stated on the Marketplace application) with their actual income (stated on their income tax form). Those who take less tax credit in advance than they claim on their tax return may get the rest of it as an income tax refund. Those who take more tax credit in advance than they can claim on their tax return will owe the difference as additional income taxes (26 CFR § 1.36B-4).

Medicaid

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)).

An individual is eligible for enrollment in Medicaid when she meets the nonfinancial criteria and has a monthly household income that is at or below the applicable Medicaid modified adjusted gross income standard (45 CFR § 155.305(c)). 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).

The 2014 FPL for a one-person household is \$11,670 (79 Fed. Reg. 3953). Therefore, taking the 5% disregard into account, the income standard for Medicaid benefits is a maximum of \$16,105 (138% of the 2014 FPL) or \$1,343.00 on a monthly basis.

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

At issue is whether the Marketplace correctly found you eligible for Medicaid as of October 7, 2014.

You were employed at [REDACTED] from January 1, 2014 until August 12, 2014 and at [REDACTED] after September 2, 2014.

On October 7, 2014, you called the Marketplace Customer Service Unit to update your application to reflect the increase in your expected income due to your transition from [REDACTED]. The system made a preliminary determination that, with an expected annual income of \$14,540.00, you qualified for Medicaid, effective October 1, 2014. You testified that the Customer Service Unit immediately corrected your expected yearly income to \$17,415.00 but that you remained Medicaid eligible in the Marketplace system.

The record contains Earnings Statements from [REDACTED] with check dates of October 3, October 10, October 17, October 24, and October 31, 2014. Each Earnings Statement indicates \$345.00 in gross earnings. Therefore, your income for October 2014 was \$1,725.00. You would qualify for Medicaid on October 7, 2014 with a monthly income of up to \$1,343.00. The evidence you provided during your hearing credibly establishes that your household's October 2014 monthly income exceeded this threshold.

You also provided September 2014 Earnings Statements that, while not useful for determination of your October income, do support your credible testimony that \$17,415.00 was a more reliable statement of your expected annual income than was \$14,540.00.

The credible evidence of record indicates that on October 7, 2014, your expected annual income was \$17,415.00 and your actual income for the month of October was \$1,725.00. Therefore, when your application was submitted that day, you did not qualify for Medicaid either on an expected annual income or on a monthly income basis.

Since a review of the available evidence confirms that the November 28, 2014 notice, and the October 7, 2014 preliminary determinations on which it is based, are not supported by the record, they must be RESCINDED.

Decision

The November 28, 2014 notice of eligibility determination and the October 7, 2014 preliminary determinations are RESCINDED.

Effective Date of this Decision: January 20, 2015

How this Decision Affects Your Eligibility

This decision rescinds (cancels) the October 2014 determinations of Medicaid eligibility, and you are not Medicaid eligible based on the information that you provided to the Marketplace during October 2014.

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).

When you file your 2014 federal income tax return, you can claim your premium tax credit based on your actual 2014 income. If that credit is higher than the tax credit you used during the year to reduce your health insurance premiums, the difference may reduce the federal income taxes you owe or increase your refund.

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.

You may bring a lawsuit on any Appeals Unit decision in New York State court in accordance with Article 78 of the New York Civil Practice Law and Rules. This must be done within four months after the date of the Decision Date, which appears on the first page of this Decision.

Additionally, Appeals Unit decisions on issues involving eligibility for qualified health plans, advance premium tax credits, and cost-sharing reductions may be appealed to the U.S. Department of Health and Human Services. This must be done within 30 days of the date of the Decision Date, which appears on the first page of this Decision (45 CFR § 155.520(c))

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.

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

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Summary

The November 28, 2014 notice of eligibility determination and the October 7, 2014 preliminary determinations are **RESCINDED**.

This decision rescinds (cancels) the October 2014 determinations of Medicaid eligibility, and you are not Medicaid eligible based on the information that you provided to the Marketplace during October 2014.

When you file your 2014 federal income tax return, you can claim your premium tax credit based on your actual 2014 income. If that credit is higher than the tax credit you used during the year to reduce your health insurance premiums, the difference may reduce the federal income taxes you owe or increase your refund.

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]