



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

Notice of Decision

Decision Date: April 7, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001160

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On January 6, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 28, 2014, December 4, 2014, and December 10, 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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Issue

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

Did the Marketplace properly state, in the November 28, 2014, December 4, 2014, and December 10, 2014 eligibility determinations, that you were eligible for Medicaid continuous coverage?

Procedural History

On October 27, 2014 and November 8, 2014, the Marketplace made preliminary determinations that, with an attested household income of \$16,679.52, you were eligible for up to \$257.00 per month in advance premium tax credit (APTC).

On November 9, 2014, the Marketplace issued a renewal notice stating that you qualified for Medicaid, effective January 1, 2015, based on information obtained from federal and state data as of November 8, 2014. The notice advised you to log into your account and update your information between November 16, 2014 and December 15, 2014, if the Marketplace had made a mistake or if there had been any changes that would affect your eligibility.

On November 17, 2014, you resubmitted your application three times. The first application listed a household income of \$11,168.48 and the last application listed a household income of \$18,532.80. The Marketplace redetermined your eligibility and, on November 28, 2014, issued a notice of redetermination.

The November 28, 2014 notice states: "You are no longer eligible for Medicaid. However, we will continue Medicaid coverage until October 31, 2015." It explains

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the reason for the continuous coverage: “This is because certain individuals who have been determined eligible for Medicaid remain eligible for benefits for twelve continuous months from the date that they were determined eligible.” According to the notice, the eligibility was effective as of November 1, 2014.

On December 4, 2014, the Marketplace issued another notice stating that you were no longer eligible for Medicaid, but that your Medicaid coverage would continue until October 31, 2015.

On December 9, 2014, you spoke with the Marketplace’s Account Review Unit and appealed your eligibility for Medicaid.

On December 10, 2014, the Marketplace issued another notice stating that you were no longer eligible for Medicaid, but that your Medicaid coverage would continue until October 31, 2015. This notice was based on a preliminary determination made on December 9, 2014.

On January 6, 2015, 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.

On January 14, 2015, the Marketplace issued a notice stating that your Medicaid coverage would continue until November 30, 2015.

On January 15, 2015, the Marketplace issued a notice stating that your Medicaid coverage would be discontinued as of January 31, 2015.

On January 21, 2015, the Marketplace issued your 1095-A tax form, which indicated that you received \$257.00 in APTC in the month of December 2014.

Findings of Fact

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

1. You testified that you plan on filing your 2015 taxes with a tax filing status of single. You further testified that you will claim no one as a dependent on that tax return.
2. You testified that during 2015 you expect to work between 27 and 30 hours per week. You further testified that in 2014, you worked an average of 28 hours per week and expect that average to remain the same in 2015.
3. You testified that you earn \$11.88 per hour before taxes are deducted.

4. You testified that you plan on taking a student loan interest deduction on your 2015 taxes, but that you do not know how much that deduction will be for the 2015 tax year.
5. You reside in Wayne County, New York.

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

Applicable Law and Regulations

Medicaid

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 (MAGI) that is at or below 138% of the federal poverty level (FPL) 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 \$11,670.00 for a one-person household (79 Fed. Reg. 3593, 3593).

A person whose Medicaid eligibility is based on the MAGI of the person or the person's household remains Medicaid eligible for twelve months unless the person becomes ineligible due to “citizenship status, lack of [New York] state residence, or failure to provide a valid social security number” (N.Y. Social Services Law § 366.4(c)).

Advance Premium Tax Credit

People who use the advance premium tax credit (APTC) 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 return). Those who take less tax credit in advance than they claim on the tax return may have their taxes reduced or get the rest of the credit 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).

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A person who is eligible for Medicaid coverage is not eligible for APTC (see 45 CFR § 155.305(f)(1)(ii)(B), 26 CFR § 1.36B-2(c)(2)).

Legal Analysis

The issue raised on appeal is whether the Marketplace correctly found, in the November 28, 2014, December 4, 2014, and December 10, 2014 eligibility determinations, that you were eligible for twelve months of Medicaid continuous coverage.

On October 27, 2014 and November 8, 2014, the Marketplace made preliminary determinations that, with an attested household income of \$16,679.52, you were eligible for up to \$257.00 per month in advance premium tax credit (APTC).

No notices were issued on the two APTC preliminary determinations. However, on November 9, 2014, the Marketplace issued a renewal notice indicating that you would become eligible for Medicaid on January 1, 2015, and advised you to update your account between November 16, 2014 and December 15, 2014 if the Marketplace had made a mistake or if there had been any changes that would affect your eligibility.

As directed in the November 9, 2014 notice, you visited the Marketplace and updated your account on November 17, 2014. In one application you listed annual income of \$11,168.48, but your final application indicated expected yearly income of \$18,532.80. Since the applications provide conflicting information on the same day, this raises the question of which figure most accurately reflected your income and should have been used when determining your eligibility.

During your hearing, you testified that the first modification made on November 17, 2014 did not accurately reflect your earnings, and that you corrected the application later that day. You also provided information regarding your average and expected income.

You testified that during 2014 you worked an average of 28 hours each week for a wage of \$11.88 per hour. This would give you an average weekly wage of \$332.64 and an annual wage of \$17,297.28.

You also testified that during 2015 you expect to work between 27 and 30 hours each week. At the same wage, that would indicate expected earnings between \$16,679.52 and \$18,532.80 annually.

Therefore the credible evidence of record indicates that the November 17, 2014 application where you attested to an expected 2015 annual income of \$18,532.80 is the more reliable and that your eligibility should have been computed using that application.

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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 modified adjusted gross income that is at or below 138% of the federal poverty level (FPL) for the applicable family size.

According to the record, you are the only person in your tax household.

On November 17, 2014, a one-person household with an annual household income of \$18,532.80 was at 158.81% of the FPL, and therefore ineligible for Medicaid. Since you were ineligible for Medicaid, you were also ineligible for continuous coverage under that program.

Although a one-person household with annual income of \$11,168.48 was eligible for Medicaid on November 17, 2014, the evidence indicates that this was not a reliable estimate of your projected 2015 income. The record also indicates that you attempted to correct your account by resubmitting your application with the more accurate estimate of \$18,532.80.

Since the November 28, 2014; December 4, 2014; and December 10, 2014 eligibility determination notices are not supported by the record, they are RESCINDED.

Additionally, the November 9, 2014 and January 14, 2015 notices that you are eligible for Medicaid effective January 1, 2015 are not supported by the record and are RESCINDED.

Taxpayers are not eligible for premium tax credits during months that they are eligible for Medicaid. However, since you were not Medicaid eligible during November 2014, December 2014, or January 2015, federal rules do not preclude you from claiming premium tax credits on your 2014 and 2015 federal tax returns for those months on the basis of Medicaid eligibility.

Since your eligibility for financial support was not properly determined on your application, your case is returned to the Marketplace for redetermination using a one-person household in Wayne County, with an expected 2015 income of \$18,532.80.

Decision

The November 9, 2014, November 28, 2014, December 4, 2014, December 10, 2014, and January 14, 2014 eligibility determinations are RESCINDED.

Your case is returned to the Marketplace for a redetermination of your eligibility using a one-person household in Wayne County, with an expected 2015 income of \$18,532.80.

Effective Date of this Decision: April 7, 2015

How this Decision Affects Your Eligibility

You were not eligible for Medicaid during November 2014, December 2014, or January 2015.

This decision does not make a final determination of your eligibility.

Your case is returned to the Marketplace for a redetermination of your eligibility for financial assistance based on a one-person household in Wayne County, with an expected 2015 income of \$18,532.80.

Once a redetermination has been made, the Marketplace will issue a redetermination notice with 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.

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.

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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 November 9, 2014, November 28, 2014, December 4, 2014, December 10, 2014, and January 14, 2014 eligibility determinations are RESCINDED.

You were not eligible for Medicaid during November 2014, December 2014, or January 2015.

This decision does not make a final determination of your eligibility.

Your case is returned to the Marketplace for a redetermination of your eligibility for financial assistance based on a one-person household in Wayne County, with an expected 2015 income of \$18,532.80.

Once a redetermination has been made, the Marketplace will issue you a redetermination notice which will contain further information.

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]