



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

Notice of Decision

Decision Date: April 22, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001300

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On January 22, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 30, 2014, and December 19, 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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[REDACTED]
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Issue

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

Did the Marketplace properly determine that you are eligible for an advance premium tax credit of up to \$206.00 per month, eligible for cost-sharing reductions, and ineligible for Medicaid as of December 18, 2014?

Procedural History

On October 1, 2014, the Marketplace issued a notice of eligibility determination based on your September 30, 2014 application. It stated that you were eligible to receive up to \$202.00 in advance premium tax credit (APTC) and that you continued to be eligible for cost-sharing reductions (CSR).

On October 6, 2014, the Marketplace received a signed letter dated October 1, 2014 from your employer stating, among other things, that you had been "out on disability leave" since August 29, 2014. The Marketplace also received copies of four earnings statements issued by your employer between July and August 2014.

The Marketplace received an application for health insurance on October 9, 2014, in which you attested to an expected yearly income of \$27,500.00; however, you further attested in your application that your income had changed because you had "[s]topped working" and requested assistance in paying medical bills for the three previous months.

On November 12, 2014, the Marketplace issued a notice based on your October 9, 2014 application. It notified you that more information was needed to make a

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determination and directed you to provide income documentation by November 29, 2014.

On November 12, 2014, the Marketplace received a signed November 5, 2014 letter from your employer. It stated, among other things, that you returned from your medical leave on October 13, 2014 and that your gross pay for the months of September and October 2014 was \$1,495.00 and \$670.00, respectively.

On November 13, 2014, the Marketplace redetermined your eligibility on your October 9, 2014 application. In it you stated that your current monthly income was \$0.00 and elected to have your eligibility based on current monthly income. The Marketplace determined that you were eligible for Medicaid coverage beginning November 1, 2014.

On November 30, 2014, the Marketplace issued a notice of eligibility redetermination stating that, with a household income of \$0.00, you were eligible for Medicaid coverage beginning November 1, 2014.

On December 18, 2014, the Marketplace received a revised application in which you attested to expected yearly income of \$27,500.00 and attested that your income for the last three months was “the same as it is today”; however, it did not indicate your current monthly income.

On December 19, 2014, the Marketplace issued a notice of eligibility redetermination based on your December 18, 2014 application. It stated that you were eligible to receive up to \$206.00 per month in APTC and, if you selected a silver-level plan, eligible for CSR. It also stated you were ineligible for Medicaid.

That same day, the Marketplace received copies of pay stubs issued September 11, 2014; October 23, 2014; and November 6, 2014.

On January 22, 2015, 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 as the Hearing Officer directed you to submit the following additional evidence to corroborate your testimony: (1) an earnings statement issued to you by your employer on or about November 20, 2014, (2) the most recent earnings statement reflecting your 2014 year-to-date gross earnings, and (3) evidence of the disability payments you received during November relating to your disability leave. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

On February 5, 2015, the Appeals Unit received via facsimile (1) two separate statements issued by ██████████ reflecting your receipt of disability benefits on November 11, 2014, and (2) a December 22, 2014 earnings statement reflecting

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your 2014 year-to-date gross earnings. No further documents were received from you by February 6, 2015.

Accordingly, the record was closed on February 6, 2015.

Findings of Fact

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

- 1) You are divorced, have no dependents, and reside in Suffolk County, New York.
- 2) You testified that you expect to file your federal income tax return as “single” and to claim no dependents.
- 3) You provided documentation showing that you have worked for your current employer since September 18, 2008.
- 4) On October 6, 2014, you provided documentation showing that you were on disability leave beginning on August 29, 2014.
- 5) On October 9, 2014, you submitted an application in which you attested to an expected annual income of \$27,500.00 and a current monthly income of \$0.00, and stated that you had experienced a change in income because you had “[s]topped working.”
- 6) On November 13, 2014, the Marketplace redetermined your eligibility on your October 9, 2014 application, and found you eligible for Medicaid coverage beginning November 1, 2014.
- 7) You testified that you submitted your application for health insurance on October 9, 2014, not only to seek Medicaid through the Marketplace as of that date, but to also obtain retroactive coverage up to and including August 2014, when you incurred significant medical bills.
- 8) You provided earnings statements showing that your employer paid you \$1,420.00 on July 17, 2014 and \$1,492.50 on July 31, 2014.
- 9) You provided earnings statements showing that your employer paid you \$1,470.00 on August 14, 2014 and \$1,495.00 on August 28, 2014.
- 10) You provided an earnings statement showing that your employer paid you \$1,495.00 on September 11, 2014. You received no other income during that month.

- 11) You provided an earnings statement showing that your employer paid you \$670.00 on October 23, 2014. December 19, 2014 correspondence from your employer confirms that these were your only earnings during October 2014. You testified that this payment was for work performed between October 13, 2014 and October 18, 2014.
- 12) Disability benefits for the period from August 29, 2014 to October 12, 2014 were paid to you on November 11, 2014.

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 that is at or below 138% of the federal poverty for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.603(d)(4)), N.Y. Soc. Serv. Law § 366(1)(b)).

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).

In an analysis of Medicaid eligibility, the determination is based on the federal poverty level (FPL) “for the applicable budget period used to determine an individual's eligibility” (42 CFR § 435.4). On October 9, 2014, that was the 2014 FPL, which is \$11,670.00 for a one-person household (79 Fed. Reg. 3593, 3593).

If an applicant for health insurance is determined Medicaid eligible, coverage will begin on the first day of the first month for which eligibility is established (18 NYCRR § 360-2.4(c)). The applicant may be determined retroactively eligible for coverage for up to three months prior to the month of the application, if Medicaid eligible during the month when medical care or services were received (*id.*).

Most adults determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage, even they would no longer be eligible 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 12-month period. This 12-month period is referred to as “continuous coverage” and is 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)).

People who receive or are eligible for Medicaid are not eligible for an Advance Premium Tax Credit (APTC) since they have, or will soon have, active coverage in the system. They will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, moving out of state, failing to provide a valid social security number, or having third party health insurance (see 45 CFR § 155.305(f); 26 CFR 1.36B-2; N.Y. Soc. Serv. Law § 366(4)(c)).

Legal Analysis

The only issue raised on appeal is whether, as of December 18, 2014, you were eligible for to \$206.00 per month in advance premium tax credit (APTC), eligible for cost-sharing reductions (CSR), and ineligible for Medicaid.

On November 13, 2014, the Marketplace redetermined your eligibility on an October 9, 2014 application and found that you were eligible for Medicaid coverage. On November 30, 2014, the Marketplace issued a notice confirming your Medicaid eligibility. That determination has not been appealed.

Since you qualified for Medicaid you also qualified for 12 months of continuous Medicaid coverage. This coverage was in effect during December 2014, making you ineligible for APTC and CSR on December 18, 2014. Therefore, the December 19, 2014 notice of eligibility determination is not supported by the record and is RESCINDED.

The November 13, 2014 notice of eligibility determination has not been appealed. However, during your hearing you indicated that you were also seeking assistance with medical bills incurred before your application was submitted. A person who is Medicaid eligible can be considered for retroactive assistance for up to three months immediately before the month of the Medicaid application. To determine which three months can be considered, the date of your successful Medicaid application and the date your Medicaid eligibility began must be known.

If an applicant for health insurance is determined Medicaid eligible, coverage begins on the first day of the first month for which eligibility is established.

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According to the record, Medicaid was granted on the basis of your October 9, 2014 application, your October 2014 income was \$670.00, and the information needed to support your application was in the record when the application was submitted. Therefore, you were eligible for Medicaid as of October 1, 2014 and can be considered for retroactive coverage for the months of July, August, and September 2014.

To qualify for retroactive coverage in a given month, a person must meet the financial and nonfinancial Medicaid criteria during that month. The financial standard for an adult is a modified adjusted gross income that is at or below 138% of the federal poverty for the applicable family size. On October 9, 2014, that was the 2014 FPL, which is \$11,670.00 for a one-person household. Since \$16,104.60 is 138% of \$11,670.00, you would qualify for retroactive Medicaid when your income for the month was no higher than \$1,342.05.

According to the record, you were paid \$2,913.50 during July, \$2,965.00 during August, and \$1,495.00 during September, so you did not meet the Medicaid financial standard in any of those months. Therefore, the record does not support returning your case to the Marketplace to determine your eligibility for retroactive Medicaid.

Finally, it is noted that the November 13, 2014 notice of eligibility determination contains a scrivener's error, in that it states that your Medicaid coverage was effective November 1, 2014 rather than October 1, 2014.

The November 13, 2014 notice of eligibility determination is MODIFIED to state that you Medicaid coverage began on October 1, 2014.

Decision

The Marketplace's November 30, 2014 eligibility determination is MODIFIED to state that your Medicaid coverage began on October 1, 2014.

The December 19, 2014 eligibility redetermination is RESCINDED.

Effective Date of this Decision: April 22, 2015

How this Decision Affects Your Eligibility

You are eligible for Medicaid coverage beginning October 1, 2014.

You are not eligible for an advance premium tax credit or cost-sharing reductions while you are eligible for Medicaid.

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You are not eligible for retroactive Medicaid benefits for the months of July, August and September 2014.

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
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- By fax: 1-855-900-5557

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Summary

The November 30, 2014 eligibility determination is MODIFIED to state that your Medicaid coverage began on October 1, 2014.

The December 19, 2014 eligibility redetermination is RESCINDED.

You are eligible for Medicaid coverage beginning October 1, 2014.

You are not eligible for an advance premium tax credit or cost-sharing reductions while you are eligible for Medicaid.

You are not eligible for retroactive Medicaid benefits for the months of July, August and September 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]