



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: AP000000001307

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On January 26, 2015, your Authorized Representative appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 1, 2015 eligibility determination.

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]
[REDACTED]
[REDACTED]

Issue

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

Did the Marketplace properly determine that you were not eligible for Medicaid as of January 1, 2015?

Procedural History

The Marketplace received your initial application for health insurance on December 24, 2014.

On December 31, 2014, the Marketplace made a preliminary determination that you were eligible for up to \$315.00 per month in advance premium tax credit (APTC) and eligible for cost-sharing reductions.

Also on December 31, 2014, you called the Marketplace's Account Review Unit and appealed that preliminary determination.

On January 1, 2015, the Marketplace issued an eligibility determination notice consistent with the December 31, 2014 preliminary eligibility determination; it stated that you were eligible to receive up to \$315.00 per month in APTC and that you were eligible for cost-sharing reductions. The notice further stated you were not eligible for Medicaid because your household income of \$22,100.00 was over the allowable income limit of \$21,707.00.

On January 22, 2015, you were scheduled to appear for a telephone hearing. A Hearing Officer from the Marketplace's Appeals Unit placed a call to your Authorized Representative, [REDACTED]. [REDACTED] stated that you were not

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available for the hearing at that time because you had been told that your Authorized Representative could testify on behalf of you and your wife. The hearing was adjourned to a later date so that either you or your wife could be available to testify.

On January 26, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. During the hearing, [REDACTED] acted as your Authorized Representative and testified on your behalf. Your wife also testified. During the hearing, your Authorized Representative waived your right to formal notice of the rescheduled hearing on the record. 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) Your wife testified that she is currently pregnant and is expecting one child.
- 2) Your Authorized Representative testified that she is a Certified Application Counselor and she helped complete your application for health insurance.
- 3) Your Authorized Representative testified that when she was completing your application, the Marketplace did not ask if your wife was pregnant.
- 4) Your wife testified that you plan on filing your 2015 income tax return as married filing jointly.
- 5) Your application lists an annual household income of \$22,100.00.
- 6) Your wife testified that this household income is accurate and consists of your expected income of \$13,000.00 and her own expected income of \$9,100.00.
- 7) Your wife testified that your household income is generally consistent from month to month.
- 8) Your wife testified that you reside in Broome County, New York.

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

Applicable Law and Regulations

Household Composition

For purposes of advance premium tax credit (APTC) and cost-sharing reductions (CSR), the household size equals the number of individuals for whom the taxpayer is allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

For purposes of Medicaid eligibility, however, the household size of either a pregnant woman or a person who is in the family of a pregnant woman includes not only the pregnant woman, but also the number of children she expects to deliver (42 CFR § 435.603(b); State Plan Amendment (SPA) 13-0055-MM3, as approved by the US Department of Health and Human Services, March 19, 2014).

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 \$19,790.00 for a three-person household (79 Fed. Reg. 3593, 3593).

Legal Analysis

The issue raised on appeal is whether the Marketplace properly determined that you and your family were not eligible for Medicaid as of January 1, 2015.

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

When calculating family size for Medicaid purposes, the household size of either a pregnant woman or a person who is in the family of a pregnant woman includes not only the pregnant woman but also the number of children she expects to deliver. On the date of your Marketplace application, your wife was pregnant, but this information is not reflected on your application. Consequently, the Marketplace determined your eligibility using a two-person household rather than a three-person household.

Since the January 1, 2015 notice of eligibility determination is based on a two-person household, it is not supported by the record and is RESCINDED.

Your case is RETURNED to the Marketplace for redetermination of your eligibility for Medicaid based on a three-person household and expected 2015 household income of \$22,100.00.

Decision

The January 1, 2015 eligibility determination is RESCINDED.

Your case is RETURNED to the Marketplace for redetermination of your eligibility for Medicaid based on a three-person household and expected 2015 household income of \$22,100.00.

Effective Date of this Decision: January 1, 2015

How this Decision Affects Your Eligibility

This decision is not a final determination of your eligibility.

Your case is being sent back to the Marketplace for a redetermination of your eligibility for Medicaid based on a three-person household and expected 2015 household income of \$22,100.00.

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

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:
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Summary

The January 1, 2015 eligibility determination is RESCINDED.

Your case is RETURNED to the Marketplace for redetermination of your eligibility for Medicaid based on a three-person household and expected 2015 household income of \$22,100.00.

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This decision is not a final determination of your eligibility.

Your case is being sent back to the Marketplace for a redetermination of your eligibility for Medicaid based on a three-person household and expected 2015 household income of \$22,100.00.

Once a redetermination has been made, the Marketplace will issue a notice of eligibility redetermination with 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]

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