



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

## Notice of Decision

Decision Date: June 10, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001459

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On February 13, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 20, 2014 and December 14, 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).

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## Decision

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NY State of Health Number: [REDACTED]  
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[REDACTED]  
[REDACTED]  
[REDACTED]

## Issues

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

Was the February 20, 2014 eligibility determination subject to appeal as of December 14, 2014?

Did the Marketplace properly determine on December 14, 2014 that you were eligible for Medicaid coverage effective December 1, 2014?

## Procedural History

The Marketplace received your final application for health insurance for the 2014 coverage year on February 19, 2014. In your application you attested to an expected yearly income of \$21,060.00.

On February 20, 2014, the Marketplace issued a notice of eligibility determination based on your February 19, 2014 application. It stated that you were eligible to receive an advance premium tax credit (APTC) of up to \$178.00 per month and, if you selected a silver-level plan, eligible for cost-sharing reductions.

On February 25, 2014 you enrolled in a Health Republic EssentialCare Silver (Health Republic) plan, with coverage to begin on May 1, 2014.

On November 5, 2014, the Marketplace issued a notice stating that it was time to renew your health insurance coverage for the 2015 coverage year. It stated that you would be reenrolled in your current plan, and that if you were satisfied with that outcome and you paid your premiums, you did not need to take any further action. However, you would be eligible for \$0.00 in APTC.

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On November 15, 2014, the Marketplace issued a notice of disenrollment advising your Health Republic plan coverage had been discontinued for non-payment as of June 30, 2014.

On November 17, 2014, you updated your application, and indicated that your expected earnings for 2015 had dropped to \$4500.00, because you had exhausted your unemployment benefits.

On December 8, 2014, the Marketplace received multiple revisions to your application for health insurance, in which you attested to an expected yearly income of \$4,500.00.

On December 9, 2014, the Marketplace notified you that more income information was needed to make a determination on whether you were eligible for financial assistance. It requested that you provide such information no later than December 26, 2014.

On December 10, 2014, the Marketplace received (1) four earnings statements issued to you by your employer, [REDACTED] between October 31, 2014 and November 21, 2014, and (2) an undated letter from [REDACTED] indicated that you are currently employed as a server on a per diem notice basis.

On December 14, 2014, the Marketplace issued a notice of eligibility determination based on your December 8, 2014 application. It said that you were eligible for Medicaid beginning December 1, 2014.

On January 14, 2015, you spoke with the Marketplace's Account Review Unit to appeal the February 20, 2015 determination insofar as you were found not eligible for Medicaid, and the December 14, 2014 eligibility determination insofar as you were found eligible for Medicaid coverage no earlier than December 1, 2014.

On February 13, 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 for the purpose of providing you an opportunity to submit the following additional evidence, as directed by the Hearing Officer: (1) Unemployment Insurance Benefits (UIB) online benefits history snapshot reflecting income received from January to August 2014, and (2) a signed statement from your employer on company letterhead detailing income received during months of August through November of 2014, or in the alternative, earnings statements reflecting same.

On February 20, 2015, you provided the above referenced documents to the Appeals Unit via facsimile and through your Marketplace account, and the record was closed.

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## Findings of Fact

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

- 1) You testified that you are not married and have no children.
- 2) You testified that you are seeking health insurance coverage only for yourself.
- 3) You testified that you expect to file your upcoming tax return as “single” and claim no dependents.
- 4) You testified, and your application indicates, that you live in Erie County, New York.
- 5) You testified that you had been collecting unemployment benefits relating to your prior position as a [REDACTED] [REDACTED] [REDACTED] but exhausted those benefits as of August 2014.
- 6) You testified that you have been employed by [REDACTED] since October of 2010, and that you are paid on a weekly basis.
- 7) On December 10, 2014, you provided earnings statements issued to you by [REDACTED] which indicated you received (1) \$141.18 on October 31, 2014, (2) \$251.94 on November 7, 2014, (3) \$150.15 on November 14, 2014, and (4) \$249.69 on November 21, 2014.
- 8) On December 14, 2014, the Marketplace issued a notice of eligibility determination based on your December 11, 2014 application. You were found to be Medicaid eligible as of December 1, 2014.
- 9) You testified that you were seeking to have your Medicaid coverage retroactively applied back to May 1, 2014 to not only cover medical bills you had incurred during that time, but also to recoup out-of-pocket premium amounts you paid relating to your enrollment in the Health Republic plan during the months of May and June of 2014.
- 10) On February 20, 2015, you provided earnings statements issued to you by [REDACTED] which indicated you received (1) \$267.59 on October 24, 2014, (2) \$82.36 on October 17, 2014, (3) \$131.95 on October 10, 2014, (4) \$397.99 on October 3, 2014, (5) \$216.91 on September 26, 2014, (6) \$238.59 on September 19, 2014, (7) \$135.13 on September 12, 2014, and (8) \$480.54 on September 5, 2014. On this date, you also provided duplicate copies of your November and October 2014 earning statements submitted earlier on December 10, 2014.

11) On February 20, 2015, you provided a copy of your UIB online payment history reflecting that you exhausted your benefits on August 25, 2014.

12) On February 20, 2015, you also provided an undated letter issued by [REDACTED] stating, among other things, that the paystubs you provided to the Marketplace from August to November of 2014 were accurate, and confirmed that you did not work from November 18, 2014 to November 25, 2014.

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

## **Applicable Law and Regulations**

### Appeal Timeliness

The Marketplace “appeals entity must allow an applicant or enrollee to request an appeal within (1) 90 days of the date of the notice of eligibility determination; or (2) a timeframe consistent with the state Medicaid agency’s requirement for submitting fair hearing requests, provided that timeframe is no less than 30 days, measured from the date of the notice of eligibility determination” (45 CFR § 155.520(b)). In New York State, the Medicaid agency permits submission of fair hearing requests within 60 days of the date of the notice of eligibility determination (N.Y. Soc. Serv. Law § 22(4)(a)), and this timeframe has been adopted by the Marketplace.

### 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 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 federal poverty level (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).

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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 March 19, 2014).

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

## **Legal Analysis**

On January 14, 2015, you spoke with the Marketplace's Account Review Unit and appealed the February 20, 2014 and December 14, 2014 eligibility determinations.

Eligibility determinations may be appealed within 60 days of issue. Since the February 20, 2014 determination was issued more than 60 days before January 14, 2015, the appeal was untimely as to that determination and is dismissed. The February 20, 2014 eligibility determination continues in effect, and the Appeals Unit does not reach the question of your Medicaid eligibility based on your February 19, 2014 application.

On December 14, 2014, the Marketplace issued a notice of eligibility determination stating that you were Medicaid eligible beginning December 1, 2014. The appeal is timely as to that determination.

Based on your revised application submitted on December 11, 2014, you were found eligible for Medicaid coverage beginning December 1, 2014.

Applicants who are found eligible for Medicaid may be determined retroactively eligible for coverage for up to three months prior to their application, provided that they would have been eligible for Medicaid the month medical services were received.

The record reflects that the Marketplace received your application on December 11, 2014. Accordingly, you would be eligible to receive Medicaid up to three months prior to your application, or September 2014, provided you would have been eligible for Medicaid during those given months.

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

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

To be eligible for Medicaid, you would need to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$1,342.00 per month. The credible evidence of record reflects that your household income during November 2014, October 2014 and September 2014 was \$651.78, \$1,021.07 and \$1,071.17, respectively.

Since your income during each of the three months prior to the December 14, 2014 determination is less than the threshold for Medicaid eligibility, the December 14, 2014 determination is MODIFIED solely to the extent that your Medicaid eligibility begins on September 1, 2014.

## **Decision**

The December 14, 2014 appeal of the February 20, 2014 eligibility determination is untimely and is dismissed.

The December 14, 2014 eligibility determination is MODIFIED solely to the extent that your retroactive Medicaid eligibility begins on September 1, 2014.

**Effective Date of this Decision:** June 10, 2015

## **How this Decision Affects Your Eligibility**

You continue to be eligible to receive Medicaid beginning December 1, 2014.

Your retroactive Medicaid coverage begins on September 1, 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

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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  
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Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The December 14, 2014 appeal of the February 20, 2014 eligibility determination is untimely and is dismissed.

The December 14, 2014 eligibility determination is MODIFIED solely to the extent that your retroactive Medicaid eligibility begins on September 1, 2014.

You continue to be eligible to receive Medicaid beginning December 1, 2014.

Your retroactive Medicaid coverage begins on September 1, 2014.

### **Legal Authority**

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(a).

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**A Copy of this Decision Has Been Provided To:**

[REDACTED]  
[REDACTED]  
[REDACTED]