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

Notice of Decision

Decision Date: June 17, 2015

NY State of Health Number: [redacted]
Appeal Identification Number: AP000000001489

[redacted]

Dear [redacted],

On February 10, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace January 16, 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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Issue

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

> Did the Marketplace properly determine that as of January 15, 2015 you were not eligible for Medicaid?

Procedural History

On January 15, 2015, your Marketplace application for health insurance was modified to attest to a household income of $86,172.08.

On January 16, 2015, the Marketplace issued an eligibility determination notice stating, in pertinent part, that you were eligible to purchase a qualified health plan for yourself at full cost and that you were not eligible for Medicaid, because your household income was over the allowable limit for that program.

Also on January 16, 2015, you spoke with the Marketplace's Account Review Unit and appealed that determination insofar as it found you ineligible for Medicaid.

On February 10, 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.

Findings of Fact

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

1) You testified that you are appealing only your own eligibility determination.

2) You testified that you will be filing your 2015 tax return as married filing separately. You further testified that you have seven children but will not be claim any of them as dependents on your own tax return.

3) You testified that you are currently married and you reside with your spouse. You testified that your spouse will be claim your seven children on his tax return.

4) You testified that you are currently pregnant with one baby and that your baby is due [redacted]

5) In your January 15, 2015 application, you attested to an annual household income of $86,172.08. This amount includes your own earnings of $8,320.08 and your husband's income of $77,852.00, which includes income from his employment and from rental properties. You testified that these income amounts are correct.

6) You testified that you think you should be eligible for Medicaid and that your husband's income should not be counted towards your eligibility for Medicaid because you are filing your taxes as married filing separately.

7) You testified that you reside in Kings County, New York.

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

Applicable Law and Regulations

Individuals are eligible to enroll in Medicaid through the Marketplace when they meet the nonfinancial criteria and have a household income that is at or below the applicable Medicaid modified adjusted gross income (MAGI) standard (45 CFR § 155.305(c)). In New York, a pregnant woman is eligible for Medicaid at a household income of 223% of the federal poverty level (FPL) (42 CFR §435.116 (c)(2); NY Department of Social Services Administrative Directive 13ADM-03).

"Family size" means the number of persons counted as members of an individual's household. The household of a taxpayer who expects to file a return,

and does not expect to be claimed as a tax dependent by anyone else, consists of the taxpayer plus all people the taxpayer expects to claim as tax dependents (42 CFR § 435.603(f)(1)).

In the case of a married couple living together, each spouse is included in the Medicaid household of the other spouse, regardless of whether they expect to file a joint tax return (42 CFR § 435.603 (f)(4)). Also, for purposes of Medicaid eligibility, the family size of a pregnant woman includes the pregnant woman and 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).

In general, household income means the aggregate modified adjusted gross income of every person who is included in the taxpayer's family and is required to file a federal tax return (26 CFR § 1.36B-1(e)).

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 (80 Fed. Reg. 3236, 3237).

Legal Analysis

The only issue raised on appeal is whether the Marketplace properly determined that you were not eligible for Medicaid.

For purposes of determining Medicaid eligibility, there are three people in your household: yourself, your unborn child, and your husband. Although you and your husband do not plan to file a joint tax return, your husband is counted as a household member because you are married and reside together. Your unborn child is counted in accordance with the New York State Plan Amendment. Your other seven children are not counted because they are being claimed on your husband's tax return, not on yours.

Household income consists of the aggregate modified adjusted gross income of every person in the household who is required to file a federal tax return. Here, your household income consists of your own income plus your husband's income, because both you and your husband will be filing federal tax returns. Although you and your husband will file separately, the Marketplace must include your husband's income in this analysis.

Your application currently lists a household income of $86,172.08. This amount consists of your own income of $8,320.08 and your husband's income of $77,852.00. You testified that these income amounts are correct. Therefore, for the purposes of calculating your eligibility for Medicaid, your household income is $86,172.08.

Medicaid can be provided through the Marketplace to pregnant women who meet the non-financial requirements and have a household modified adjusted gross income that is at or below 223% of the federal poverty level (FPL) for the applicable family size. On the date of your application, the relevant FPL was the 2014 FPL, which is $19,790.00 for a three-person household. Since $86,172.08 is 435.43% of the 2014 FPL, the Marketplace properly found you to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

Decision

The January 16, 2015 eligibility determination is AFFIRMED.

Effective Date of this Decision: June 17, 2015

How this Decision Affects Your Eligibility

According to the information provided in your application, and confirmed in your testimony, you are not eligible for Medicaid.

You remain eligible to purchase a qualified health plan at full cost.

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

Summary

The January 16, 2015 eligibility determination is AFFIRMED.

According to the information provided in your application, and confirmed in your testimony, you are not eligible for Medicaid.

You remain eligible to purchase a qualified health plan at full cost.

Legal Authority

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

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).

A Copy of this Decision Has Been Provided To:

[redacted]

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