



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

Notice of Decision

Decision Date: July 22, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001512

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED]

On February 24, 2015, you and your Authorized Representative appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's January 6, 2015 and January 15, 2015 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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Issues

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

Did the Marketplace determine that you were not eligible for Medicaid effective February 1, 2015?

Did the Marketplace properly determine that your daughter was not eligible for Medicaid?

Procedural History

On September 30, 2014, the Marketplace issued a notice of eligibility redetermination that stated your son remained conditionally eligible for Medicaid pending receipt of documentation to provide his citizenship. The notice further stated that you remained eligible for Medicaid coverage.

That same day, the Marketplace issued a notice of eligibility determination stating that your daughter was not qualified for financial assistance or to enroll in a plan because it had not been able to verify her citizenship status and because it had determined that she was already enrolled in or eligible for a public insurance program, such as Medicare.

On November 7, 2014, the Marketplace received a revised application for health insurance.

On November 8, 2014 the Marketplace issued an eligibility determination notice that stated your daughter was found not qualified for financial assistance or

eligible to enroll in a plan since it was not able to verify her citizenship status, and it had determined that she was already “[r]eceiving Medicare Public MEC.”

On November 30, 2014, the Marketplace issued an eligibility determination notice that stated you were no longer eligible for Medicaid however, your coverage would continue until August 31, 2015.

On January 5, 2015, the Marketplace received your household’s revised application for health insurance.

On January 6, 2015, the Marketplace issued a notice of eligibility redetermination based on your January 5, 2015 application. It stated that you were eligible to enroll in a qualified health plan (QHP); conditionally eligible to receive an advance premium tax credit (APTC) of up to \$264.00 per month; and, if you selected a silver-level plan, conditionally eligible for cost-sharing reductions (CSR). This eligibility was effective February 1, 2015. This notice further stated that in order for your eligibility to be finalized you would need to provide documentation to prove your citizenship status by April 7, 2015. In addition, your son was found eligible for full Medicaid beginning January 1, 2015.

On January 14, 2015, the Marketplace received an updated application for health insurance.

On January 15, 2015, the Marketplace issued a notice of eligibility determination based on your January 14, 2015 application. It stated that you are eligible to enroll in QHP; conditionally eligible to receive an APTC of up to \$264.00 per month; and, if you selected a silver-level plan, conditionally eligible for CSR. This eligibility was effective February 1, 2015. You were not eligible for Medicaid because your income was over the allowable limit for that program. The notice further said that your son remained eligible for Medicaid effective January 1, 2015. This determination was based, in part, on an annual household income of \$31,452.00. In order to finalize your eligibility, you were requested to provide documentation to prove your citizenship status by April 16, 2015.

In a separate notice of eligibility determination, also issued on January 15, 2015, your daughter was found not eligible for financial assistance or to enroll in a QHP at full cost through the Marketplace because it was unable to verify her citizenship status, and she was determined to already “be enrolled in or eligible for a public insurance program such as Medicare...”

On January 20, 2015, you spoke with the Marketplace’s Account Review Unit to appeal the January 15, 2015 eligibility determinations insofar as you and your daughter were found ineligible for Medicaid.

On February 24, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace’s Appeals Unit. You daughter, [REDACTED], also attended the

hearing as your Authorized Representative. The record was developed during the hearing and remained open for the sole purpose of providing you an opportunity to submit as additional evidence: (1) a copy of your daughter's passport, (2) most recent tax return reflecting tax filing status and number of dependents, (3) an updated SSA award letter issued to your spouse reflecting reduced benefit award of approximately \$1,700.00 per month, and (4) SSA award letter reflecting your daughter's benefit award of \$921.00 per month. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier. No additional documents were received from you by March 11, 2015.

Accordingly, the record was closed on March 11, 2015.

Findings of Fact

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

- 1) Your January 14, 2015 application indicates that you are married and expect to file a U.S. Income Tax return for 2015 as "married, filing jointly" and claim only your daughter as a dependent.
- 2) You testified during the hearing that you now expect to claim your son as a dependent on your 2015 Income Tax return as well since he is unemployed and not receiving an income.
- 3) You are seeking insurance through the Marketplace for yourself and your two adult children. However, you are only appealing yours and your daughter's eligibility at this time.
- 4) You reside in Nassau County, New York.
- 5) You attested on the July 9, 2014 application that you expect to file a joint return with your spouse, claim both of your children as dependents, and that your household income was \$5,000.00.
- 6) On July 18, 2014, the Marketplace received a copy of your U.S. Passport issued to you on May 30, 2006.
- 7) On July 22, 2014, the Marketplace found you eligible for Medicaid, without condition, effective June 1, 2014.
- 8) You provided multiple letters stating that you are unemployed, receive no income and rely on your spouse for financial support. Your Authorized Representative testified that you have not been employed since 2012.

9) Your January 14, 2015 application reflects that your spouse receives \$1,700.00 per month in SSA benefits. This application also reflects that your daughter receives \$921.00 per month in SSA benefits.

10) You testified that at the time of your January 14, 2015 application that your daughter was enrolled in Medicare.

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

Applicable Law and Regulations

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)).

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).

Most adults determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage, even if 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))

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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, and \$23,850.00 for a four-person household (79 Fed. Reg. 3593, 3593).

Medicaid must be provided to residents who are otherwise eligible and, who:

- 1) are citizens or nationals of the United States, or qualified aliens; and
- 2) provide satisfactory documentation of their citizenship, national status, or Qualified Alien Status

(42 C.F.R. § 435.406(a)(1)(i)-(ii); 435.406(a)(2)(i)).

Legal Analysis

The first issue is whether the Marketplace correctly determined that you are not eligible for Medicaid effective February 1, 2015.

You submitted an application for insurance through the Marketplace on July 9, 2014 and were determined eligible for Medicaid. You attested within that application that you expected to file a joint return with your spouse and claim both of your children as dependents. You were determined eligible for Medicaid at that time because your joint expected income of \$5,000.00 was below the Medicaid income threshold of \$32,913.00 for a household of four people. There is no evidence in the record to show that your expected income was greater than the Medicaid threshold of \$32,913.00. Therefore, you were correctly determined to be eligible for Medicaid as of July 9, 2014.

On July 22, 2014, the Marketplace issued a notice of eligibility determination finding, among other things, that you remained eligible for full Medicaid, effective June 1, 2014.

Generally, once a person is found eligible for Medicaid, they remain eligible for 12 continuous months. Since you qualified for Medicaid effective June 1, 2015 you should have remained eligible until May 31, 2015. Therefore, your Medicaid coverage was in effect during January 2015, making you ineligible for an advance premium tax credit (APTC) and eligible for cost-sharing reductions (CSR). Therefore, the January 6, 2015 and January 15, 2015 notices of eligibility determination finding you eligible for APTC and CSR, and ineligible for Medicaid are not supported by the record and are **RESCINDED**.

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The second issue is whether or not the Marketplace properly determined that your daughter was not eligible for Medicaid.

Federal regulations require that a person seeking enrollment in Medicaid through the Marketplace have United States citizenship, satisfactory national status, or other satisfactory immigration status. These regulations require the Marketplace to obtain or verify a person's immigration status in order to allow that person enrollment in Medicaid.

When the January 15, 2015 notice of eligibility determination was issued, evidence of your daughter's citizenship was not available in your Marketplace file.

Furthermore, in order to be eligible for Medicaid through the Marketplace, a person must not be entitled to or enrolled in Medicare. You credibly testified, and your application indicates, that your daughter was enrolled in Medicare at the time of your January 14, 2015 application.

Therefore, the January 15, 2015 notice of eligibility determination issued to your daughter that stated she is not eligible for Medicaid is correct and must be AFFIRMED.

Decision

The January 6, 2015 and January 15, 2015 eligibility determinations issued to you are RESCINDED.

The January 15, 2015 eligibility determination issued to your daughter is AFFIRMED.

Effective Date of this Decision: July 22, 2015

How this Decision Affects Your Eligibility

You are eligible for Medicaid coverage beginning June 1, 2014 through May 31, 2015.

Your daughter is not eligible for Medicaid. Your daughter continues to be ineligible to receive financial assistance or to enroll in a qualified health plan through the Marketplace.

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 6, 2015 and January 15, 2015 eligibility determinations issued to you are RESCINDED.

The January 15, 2015 eligibility determination issued to your daughter is AFFIRMED.

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You are eligible for Medicaid coverage beginning June 1, 2014 until May 31, 2015.

Your daughter is not eligible for Medicaid. Your daughter continues to be ineligible to receive financial assistance or to enroll in a qualified health plan through the Marketplace.

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]