



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

### Notice of Decision

Decision Date: August 7, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001605

[REDACTED]  
[REDACTED]  
[REDACTED]

Dear [REDACTED],

On June 12, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 29, 2014 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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## Decision

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NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000001605

[REDACTED]  
[REDACTED]  
[REDACTED]

## Issues

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

Did the Marketplace properly determine that you are eligible to receive up to \$170.00 of advance premium tax credit and cost-sharing reductions, if you select a silver-level qualified health plan as of July 29, 2014?

Did the Marketplace properly determine that you are eligible for Medicaid effective January 1, 2015?

## Procedural History

On July 29, 2014, the Marketplace issued an eligibility determination notice that you are eligible for up to 170.00 of advance premium tax credit and cost-sharing reductions, if you select a silver-level qualified health plan. The notice also states that you are not eligible for Medicaid because the household you provided is over the allowable income limit.

On December 12, 2014, your Marketplace account was updated.

On December 13, 2014, the Marketplace issued a notice stating you “may be eligible for health insurance through New York State of Health but more information is needed to make a determination.”

On January 12, 2015 your Marketplace account was updated.

On January 13, 2015 the Marketplace issued an eligibility determination notice stating that you are eligible for Medicaid effective as of January 1, 2015.

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).

On January 27, 2015, you spoke to the Marketplace's Account Review Unit and requested an appeal insofar as the start date of your Medicaid coverage.

On February 27, 2015, a Hearing officer from the Marketplace Appeal Unit attempted to contact you on three separate occasions. Your appeal was dismissed for failure to appear for the scheduled hearing.

On March 2, 2015, the Marketplace received a letter from you requesting your hearing with the Marketplace Appeals Unit to be rescheduled.

You filed a fully executed Authorized Representative Designation Form (DOH-5085), signed January 13, 2015, designating your mother, [REDACTED], as your authorized representative in this matter.

On June 12, 2015, your authorized representative, [REDACTED], had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. Testimony was taken and the record was developed during the hearing. The record is now complete and closed.

## **Findings of Fact**

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

1. Your mother, [REDACTED], represented you as your authorized representative at your telephone hearing with the Marketplace's Appeals Unit.
2. You initially applied for health insurance through Putnam County Local Department of Social Services (LDSS) on July 21, 2014 (Authorized Representative's Testimony).
3. You were denied Medicaid benefits by Putnam County LDSS for excess income based on your Workers' Compensation benefits (Authorized Representative's Testimony).
4. On July 29, 2014, the Marketplace determined you, based on an annual household income of \$26,346.84, eligible for up to \$170.00 monthly of advance premium tax credit and cost-sharing reductions, if you select a silver-level qualified health plan (7/29/2015 Marketplace notice).
5. On January 13, 2015, the Marketplace determined you eligible for Medicaid effective January 1, 2015 (1/13/2015 Marketplace notice).
6. You were injured in the course of your employment in October 2013 (Authorized Representative's Testimony).

7. On January 2, 2015, you faxed to the Marketplace a statement from the [REDACTED] stating that you began receiving workers' compensation benefits at the rate of \$506.57 per week on November 7, 2013.
8. Workers' Compensation has been your only source of income since November 7, 2013 (Authorized Representative's Testimony).
9. You are seeking reimbursement of \$6,000.00 to \$7,000.00 in medical bills for July 2014 (Authorized Representative's Testimony).
10. You did not file a U.S. Income Tax Return for 2014 (Authorized Representative's Testimony).

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

## **Applicable Law and Regulations**

### Household Income:

For the purposes of determining a person's eligibility for financial assistance for health insurance, the term 'modified adjusted gross income' means adjusted gross income increased by (1) any income that was excluded under 26 USC § 911 for United States citizens or residents living abroad, (2) tax-exempt interest received or accrued, and (3) social security benefits that were excluded from gross income under 26 USC § 86 (see 26 USC § 36B(d)(2)(B), 26 CFR § 1.36B-1(e)(2)).

Workers' compensation benefits that are received as compensation for personal injuries or sickness are not included in modified adjusted gross income (see NY Soc Serv Law § 366(1)(a)(7); 26 USC § 36B(d)(2)(B), 62(a), 104(a)(1)).

### 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 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).

## **Legal Analysis**

The first issue is whether Marketplace properly determined that you eligible for up to \$170.00 monthly in advance premium tax credits and cost-sharing reductions, if you select a silver-level qualified health plan.

Based on the credible evidence, you initially applied for health insurance through Putnam County LDSS on July 21, 2014 and was denied Medicaid benefits for excess income based on your Workers' Compensation benefits.

Your case was transferred to the Marketplace who, based on an annual household income of \$26,346.84, determined you eligible for up to \$170.00 monthly of advance premium tax credit and cost-sharing reductions, if you select a silver-level qualified health plan on July 29, 2014.

The record shows that began receiving workers' compensation benefits at the rate of \$506.67 per week on November 7, 2013, and has been your only source of income since that date.

Since workers' compensation benefits should not be included in the Marketplace's calculation of modified adjusted gross income (MAGI), your eligibility was determined using an incorrect household income. Since an incorrect was used to determine your eligibility, the July 29, 2014 eligibility is not supported by the record and is RESCINDED.

You may be eligible for reimbursement of medical expenses that were the result of the Marketplace's error.

## **Decision**

The July 29, 2014 eligibility determination is RESCINDED.

Your case is RETURNED to the Marketplace to redetermine your eligibility for Medicaid as of July 2014, based on a household of one with an income of \$0.00.

The January 13, 2015 eligibility determination is Rescinded pending redetermination of your eligibility.

**Effective Date of this Decision:** August 7, 2015

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

This decision does not determine your eligibility, it returns your case to the Marketplace to make a redetermination of your eligibility for Medicaid as of July 2014. You will receive a redetermination of your eligibility.

You may be eligible for reimbursement for any outstanding medical expenses that were incurred as a result of an incorrect determination.

## **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 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).

## **If You Have Questions about this Decision (Customer Service Resources):**

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- By calling the Customer Service Center at 1-855-355-5777
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NY State of Health Appeals  
P.O. Box 11729  
Albany, NY 12211
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## **Summary**

The July 29, 2015 eligibility determination is RESCINDED.

Your case is RETURNED to the Marketplace to redetermine your eligibility for Medicaid as of July 2014, based on a household of one with an income of \$0.00.

The January 13, 2015 eligibility determination is Rescinded pending redetermination of your eligibility.

You may be eligible for reimbursement for any outstanding medical expenses that were incurred as a result of the gap in your Medicaid coverage.

## **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]