



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

Notice of Decision

Decision Date: August 14, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001764

[REDACTED]

Dear [REDACTED],

On April 2, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 13, 2015 eligibility determination notice.

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 Date: August 14, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001764

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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 the effective date of your Medicaid eligibility?

Procedural History

The Marketplace received your modified application for health insurance on December 26, 2014.

On December 27, 2014, the Marketplace issued a notice that stated you might be eligible for health insurance but more information was needed to make a determination. The notice requested that you submit income documentation for your household.

On January 9, 2015, January 23, 2015, and February 9, 2015 income documentation was uploaded to your Marketplace account.

On February 11, 2015, the Marketplace made a preliminary eligibility determination that stated you were eligible for Medicaid effective February 1, 2015.

On February 12, 2015, your certified application counselor appealed the preliminary eligibility determination as it related to the effective date of your Medicaid coverage.

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On February 13, 2015, the Marketplace issued an eligibility determination that stated you were conditionally eligible for Medicaid, effective February 1, 2015.

On April 2, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. During the hearing, your certified application counselor, [REDACTED], acted as your authorized representative during the hearing. 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) The record reflects that the Marketplace has conceded that the proper start date of your Medicaid coverage was December 1, 2014, and has already backdated your coverage through Medicaid to that date (Appellant's Exhibit #1).
- 2) You testified that you are seeking retroactive coverage through Medicaid for the months of October and November 2014.
- 3) You testified that you file your taxes with a tax filing status of single and claim one dependent on your tax return.
- 4) The record contains paystubs that were uploaded to your Marketplace account. The first paystub dated 11/7/2014 is for the gross pay amount of \$100.00, the second paystub dated 11/14/2014 is for the gross pay amount of \$600.00, the third paystub dated 11/28/2014 is for the gross pay amount of \$1,000.00, and the fourth paystub dated 12/12/2014 is for the gross pay amount of \$100.00.
- 5) You testified that the paystubs in your account are not paystubs but are gifts from coworkers who donated some of their sick time to you while you were out from work.
- 6) The record contains a letter from your employer dated February 5, 2015 that states you were employed from May 6, 2013 to November 21, 2014 as well as from January 31, 2015 to February 6, 2015. The letter further states that you did not work for the entire month of December.
- 7) The record contains a letter from your employer dated February 12, 2015 that states you did not work for the entire months of December and October 2014.

- 8) As of the February 13, 2015 eligibility determination notice, your application listed an expected annual income of \$0.00.

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

Applicable Law and Regulations

Medicaid for Adults between the Ages of 19 and 65

Medicaid through the Marketplace can be provided 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), 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 \$15,730.00 for a two-person household (79 Fed. Reg. 3593).

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).

The Department of Health must make Medicaid coverage start retroactively for up to three months prior to the month of application if the individual received medical services that would have been covered under Medicaid and the individual would have been eligible for Medicaid at the time he received the services if he had applied. (42 CFR 435.915(a)). The Department of Health may make eligibility effective for fee-for-service Medicaid on the first day of the month if an individual was eligible any time during that month (42 CFR 435.915(b)).

Legal Analysis

The issue under review is when your Medicaid coverage should have been made effective.

You are in a two person household; you file your taxes with a tax filing status of single and claim one dependent on your tax return.

You were initially found conditionally eligible for Medicaid in the February 13, 2015 eligibility determination notice. According to this notice, your coverage with Medicaid began February 1, 2015. However, the record indicates that after this notice was issued the Marketplace revised your Medicaid coverage effective date to December 1, 2014.

You testified that you are seeking to have your Medicaid coverage retroactively applied for the months of October and November 2014.

Medicaid coverage can be made effective retroactively for up to three months prior to an individual's application if the individual received medical services that would have been covered under Medicaid and if they would have been eligible for Medicaid in those three months had they applied.

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 in October 2014, you would have needed to meet the non-financial criteria and have an income no greater than 138% of the Federal Poverty Line (FPL), which is \$1,809.00 per month. There is no indication in the record that you would have been ineligible for Medicaid based on non-financial criteria during October.

You testified that you did not work at all in the month of October 2014. The record contains a letter from your employer that supports your testimony that you did not work in October 2014. Since your income of \$0.00 was less than the \$1,809.00 Medicaid limit for October 2014, you should have been approved for retroactive Medicaid coverage for the month of October 2014.

To be eligible for Medicaid in November 2014, you would need to meet the non-financial criteria and have an income no greater than 138% of the FPL, which is \$1,809.00 per month. There is no indication in the record that you would have been ineligible for Medicaid based on non-financial criteria during November.

The record contains three paystubs from the month of November for the gross pay amounts of \$100.00, \$600.00, and \$1,000.00. You testified that these paystubs were gifts from coworkers; however the record contains a letter from your employer, dated February 5, 2015, that states you were employed from May 6, 2013 to November 21, 2014. The November paystubs corroborate that you partially worked during the month of November 2014. Furthermore, even if some of the money you received in November was a gift from your co-workers through a leave donation program, the income was still received via an employer pay check. Therefore, your household income for the month of November 2014 was \$1,700.00.

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Since your income of \$1,700.00 was less than the \$1,809.00 Medicaid limit for November 2014, you should have been approved for retroactive Medicaid coverage for the month of November 2014 as well.

Decision

The February 13, 2015 eligibility determination is MODIFIED to state you are eligible for Medicaid and that your insurance coverage through Medicaid is effective October 1, 2014.

Effective Date of this Decision: August 14, 2015

How this Decision Affects Your Eligibility

You are eligible for Medicaid effective October 1, 2014.

This decision has no effect on any eligibility determination issued after February 13, 2015.

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.

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

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Summary

The February 13, 2015 eligibility determination is MODIFIED to state you are eligible for Medicaid and that your insurance coverage through Medicaid will begin October 1, 2014.

You are eligible for Medicaid effective October 1, 2014.

This decision has no effect on any eligibility determination issued after February 13, 2015.

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]