



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

Notice of Decision

Decision Date: June 26, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001772

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On March 12, 2015, you and your daughter, who served on your behalf as your authorized representative, appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 14, 2015 eligibility redetermination.

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]
[REDACTED]
[REDACTED]

Issue

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

Did the Marketplace properly determine that you are not eligible for Medicaid through the Marketplace as of February 13, 2015?

Procedural History

The Marketplace received your initial application on February 13, 2015, and prepared a preliminary eligibility determination that you are not eligible for financial assistance through New York State of Health.

That same day, you appealed the eligibility determination insofar as you were not determined eligible for Medicaid Fee for Service.

On February 14, 2015, the Marketplace issued a notice of eligibility redetermination that stated, based on updated information it had received, you were eligible to purchase a qualified health plan at full cost through NY State of Health effective March 1, 2015. That notice also said the next step would be for your Local Department of Social Services to follow-up with you about your eligibility for Medicaid and will notify you of any additional information that is needed. It further stated, in relevant part, that you are not eligible for Medicaid because the household income you provided of \$21,600.00 is over the allowable income limit of \$16,105.00.

On February 21, 2015, the Marketplace issued a notice of eligibility redetermination that stated you were conditionally eligible to purchase a qualified health plan at full cost through NY State of Health effective April 1, 2015. That notice also informed you that

additional information was needed regarding the termination of your Medicare Part A or Part B coverage by April 8, 2015.

On March 12, 2015, you were contacted by a Hearing Officer to conduct the telephone hearing. A Spanish interpreter (ID# [REDACTED]) assisted and your daughter served on your behalf as your authorized representative. The record was developed and held open for up to fifteen days to allow you the opportunity to submit proof of your disability income and Medicare Part A and B coverage.

On March 27, 2015, the Marketplace's Appeals Unit received a three page fax from you. It consisted of (1) A cover page; (2) A copy of your Medicare health insurance card; and (3) A copy of your Social Security Disability Insurance letter, dated May 15, 2013. This fax was made part of the record as "Appellant's Exhibit A."

Since the requested documents were received, the record was closed that same day.

Findings of Fact

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

- 1) You testified that you are single, have no dependents, and are certified disabled.
- 2) You testified that the correct spelling of your last name is "[REDACTED]."
- 3) According to your Marketplace application, your birthdate is [REDACTED], you were [REDACTED] old when you applied and will turn 65 on [REDACTED].
- 4) According to your Marketplace application, you attested to an income of \$21,600.00, which you testified at the hearing is not correct.
- 5) You provided a copy of your Social Security Disability Insurance letter, dated May 15, 2013, that states beginning May 2013 your monthly Title II Disability benefits are \$1,865.00, which is \$22,380.00 annually (Appellant's Exhibit A, p.3). You testified that this is your only source of income.
- 6) You testified that you have health insurance under Medicare and provided a copy of your Medicare health insurance card that shows coverage for Part A (hospital) and Part B (medical) began July 1, 2013 (Appellant's Exhibit A, p.2).
- 7) According to your Marketplace account, your status under Medicare health insurance was active as of February 20, 2015.
- 8) You testified that you are not required to file taxes because you are disabled and only receive Title II Disability benefits.

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- 9) You testified that you want health insurance under Medicaid to get help paying for your prescription medications and over the counter medications that you take.
- 10) You testified that you have not applied for Medicaid through your Local Department of Social Services or through Medicare for prescription drug coverage.
- 11) You reside in ██████ County, New York.

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

Applicable Law and Regulations

There are two primary places to apply for Medicaid in New York State, the New York State of Health Marketplace and your Local Department of Social Services (LDSS) or, if you live in one of New York City's five boroughs, the New York City Human Resources Administration (HRA). Generally, adults aged 19 to 64 apply for Medicaid through the Marketplace, and adults over the age of 65 who are not parents or caretaker relatives apply for Medicaid through their LDSS or the HRA.

MAGI-based Medicaid

An individual is eligible for enrollment in Medicaid through the Marketplace (called MAGI-based Medicaid) when he or she meets certain nonfinancial criteria and has a household income that is at or below the applicable Medicaid income standard (45 CFR § 155.305(c); N.Y. Soc. Serv. Law § 366(1)(b)).

Medicaid can be provided through the Marketplace to adults who meet the following non-financial criteria: (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 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)).

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 2015 FPL, which is \$11,770.00 for a one-person household (79 Fed. Reg. 3593, 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).

Non-MAGI Based Medicaid

If you do not meet any of the non-financial criteria, such as being enrolled in Medicare benefits under part A or B, you may be eligible for non-MAGI based Medicaid coverage through your LDSS or the HRA (N.Y. Soc. Serv. Law § 366(1)(c)).

Legal Analysis

The only matter at issue is whether you were properly determined ineligible for Medicaid through NY State of Health.

According to your testimony and the record at the time of your February 13, 2015 application and the February 14 and 20, 2015 eligibility redeterminations, you were 64 years old and not currently receiving Medicaid. Your appeal is from the February 14, 2015 eligibility redetermination, as made on February 13, 2015. However, you also requested review at hearing of the February 20, 2015 notice of eligibility redetermination, which this analysis will address in the interest of expediency.

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 federal poverty level (FPL), which is \$16,243.00 (138% of \$11,770.00) per year or \$1,354.00 per month. Since the Marketplace relied upon your attested income of \$21,600.00 for 2015 at the time of the February 13, 2015 preliminary eligibility determination, it properly determined that you did not qualify for Medicaid on the basis of an annual income of \$21,600.00 or \$1,800.00 of monthly income when you submitted your initial application. Therefore the Marketplace's February 14, 2015 notice of eligibility redetermination is AFFIRMED.

On February 20, 2015, the Marketplace issued a notice of eligibility redetermination that stated you were "conditionally eligible" to purchase a qualified health plan at full cost and not eligible for Medicaid. To be considered for financial assistance you needed to provide proof of termination of coverage of Medicare Part A or Part B and have an income no greater than 138% of the FPL. However, the credible evidence of record shows that you have active coverage in Medicare Parts A and B and expect to receive \$22,380.00 in Title II Disability benefits in 2015.

The reason you were determined ineligible for Medicaid on February 20, 2015 is twofold: (1) the Marketplace confirmed your Medicare coverage was active as of that date such that you do not meet the non-financial criteria to be eligible for Medicaid

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through the NY State of Health; and (2) you are over income using the same annual and monthly income as used on February 13, 2015. For these reasons, the Marketplace correctly determined that you were ineligible for Medicaid and the February 20, 2015 eligibility determination is AFFIRMED.

The same is true using your actual 2015 expected gross income of \$22,380.00. 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 as has already been stated is \$1,354.00 per month. Since the credible evidence demonstrates that your gross income is \$22,380.00 for 2015, which is \$1,865.00 per month, you did not qualify for Medicaid on the basis of monthly income.

The Marketplace does not have the authority to decide if you qualify for non-MAGI based Medicaid or for Medicare part D for prescription drug coverage. Since you may be eligible for Medicaid on a non-MAGI basis, the Marketplace will refer your case to your Local Department of Social Services (LDSS) for consideration.

The LDSS will determine your eligibility for Medicaid or other Medicare programs.

For more information about non-MAGI eligibility requirements for Medicaid and/or other Medicare programs, you can contact your LDSS. A listing of offices can be found at http://www.health.ny.gov/health_care/medicaid/ldss.htm.

Decision

The February 14 and 20, 2015 eligibility determination are AFFIRMED.

However, the Marketplace is directed to (1) Correct your last name to "██████;" and (2) Adjust your 2015 income to \$22,380.00 as reflected in the credible evidence of record.

Effective Date of this Decision: June 26, 2015

How this Decision Affects Your Eligibility

You do not qualify for Medicaid through the NY State of Health Marketplace.

Since you may be eligible for Medicaid on a non-MAGI basis, the Marketplace will refer your case to your Local Department of Social Services (LDSS) for consideration. The LDSS will determine your eligibility for Medicaid or other Medicare programs.

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 February 14 and 20, 2015 eligibility redeterminations are **AFFIRMED**.

However, the Marketplace is directed to (1) Correct your last name to [REDACTED];" and (2) Adjust your 2015 income to \$22,380.00 as reflected in the credible evidence of record.

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You do not qualify for Medicaid through the NY State of Health Marketplace.

Since you may be eligible for Medicaid on a non-MAGI basis, the Marketplace will refer your case to your Local Department of Social Services (LDSS) for consideration. The LDSS will determine your eligibility for Medicaid or other Medicare programs.

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For more information about non-MAGI eligibility requirements for Medicaid and/or other Medicare programs, you can contact your LDSS. A listing of offices can be found at http://www.health.ny.gov/health_care/medicaid/ldss.htm.

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]