



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: AP000000001777

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On March 16, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 6, 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

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NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001777

[REDACTED]
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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 you were eligible for Medicaid through “continuous coverage” until January 31, 2016?

Procedural History

On February 4, 2015, your application with the Marketplace was switched from a Non-Financial Assistance application to a Financial Assistance application. That day, the household income that was listed in your account was updated twice.

Based on the first application received on February 4, 2015, which listed an income of \$26,000.00, the Marketplace made a preliminary eligibility determination that stated you were eligible for Medicaid.

The second application received on February 4, 2015 listed an income of \$35,000.00.

On February 6, 2015, the Marketplace issued an eligibility determination notice, based on the second February 4, 2015 application, that stated you were no longer eligible for Medicaid but that your coverage would continue until January 31, 2016 because certain individuals who are determined eligible for Medicaid remain eligible for benefits for twelve continuous months.

On February 12, 2015, a written appeal request was received by the Marketplace regarding your eligibility for Medicaid.

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On March 16, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during the hearing and left open for 15 days to allow you time to submit proof of your household's income. Later that day, a copy of your wife's 1099 tax form was uploaded to your Marketplace account. The record is now closed.

Findings of Fact

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

- 1) You are the only person in your household currently seeking insurance coverage through the Marketplace.
- 2) You testified that for 2015 you plan on filing an income tax return with a tax filing status of married filing jointly and that you will claim one dependent on that tax return.
- 3) You testified that you originally applied for health insurance through the Marketplace using a non-financial assistance application because you did not realize you might be eligible for financial assistance.
- 4) You testified that on February 4, 2015, your wife added income information to your Marketplace account; however she accidentally typed a "2" instead of a "3" when she listed your household income.
- 5) Your wife submitted a written appeal that stated she filled out the financial information in early February, but that after she submitted the application, she realized that the income amount was incorrect. She went back into the account that day to fix the error; however the system had already found you Medicaid eligible.
- 6) Your application currently lists an annual expected household income of \$35,000.00. You testified that this amount is correct and it is what your household expects to earn in 2015 after your tax deductions.
- 7) You provided a copy of your wife's 20141099-MISC tax form that lists nonemployee gross compensation of \$61,439.50.
- 8) Your application states that you reside in New York County, NY.

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

Applicable Law and Regulations

Medicaid Eligibility

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 § 435.911(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 \$20,090.00 for a three-person household (80 Fed. Reg. 3236, 3237).

Most applicants determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage offered through Medicaid Managed Care, even if the adult loses Medicaid eligibility 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 set 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)).

Legal Analysis

The only issue is whether the Marketplace appropriately found you eligible for enrollment in Medicaid through “continuous coverage.”

According to the record, you are in a three-person household. You plan on filing your taxes with a tax filing status of married filing jointly and you will claim one dependent on that tax return.

Medicaid can be provided through the Marketplace to adults between the ages of 19 and 65 who meet the non-financial requirements and 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. At the time of your application, a household of three people would be eligible for Medicaid if the household income was below \$27,725.00.

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On February 4, 2015, the Marketplace received two applications for financial assistance from you. The first one listed a household income of \$26,000.00. You testified that this amount was entered in error and a letter from your wife confirms this testimony. This error in income resulted in a preliminary eligibility determination that stated you were eligible for Medicaid.

On the second application submitted on February 4, 2015, listed a household income of \$35,000.00. You testified that this was the correct amount of household income your family expects to receive after tax deductions in 2015.

On February 6, 2015, the Marketplace issued an eligibility determination notice that stated you were no longer eligible for Medicaid but that your coverage would continue until January 31, 2016 because certain individuals who are determined eligible for Medicaid remain eligible for benefits for twelve continuous months.

Once a person is found eligible for Medicaid, they remain eligible for Medicaid for 12 continuous months whether or not their income increases. This is referred to as "continuous coverage." However, there was no eligibility determination notice issued that found you were eligible for Medicaid, only a preliminary eligibility determination that was never finalized by any official eligibility determination notice.

Since there is no official notice to support your being Medicaid eligible, the continuous coverage policy should not have been applied to you. Therefore, the February 6, 2015 eligibility determination notice is RESCINDED.

Decision

The February 6, 2015 eligibility determination is RESCINDED.

Your case is RETURNED to the Marketplace for a redetermination of your eligibility for financial assistance based on a household size of three people, expected annual income of \$35,000.00, and a county of residence of New York County.

Effective Date of this Decision: August 7, 2015

How this Decision Affects Your Eligibility

This is not a final determination your eligibility for financial assistance.

Your case is being sent back to the Marketplace for a redetermination of your eligibility for financial assistance based on a household size of three people,

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expected annual income of \$35,000.00, and a county of residence of New York County.

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:
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Albany, NY 12211
- By fax: 1-855-900-5557

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Summary

The February 6, 2015 eligibility determination is RESCINDED.

This is not a final determination your eligibility for financial assistance.

Your case is being sent back to the Marketplace for a redetermination of your eligibility for financial assistance based on a household size of three people, expected annual income of \$35,000.00, and a county of residence of New York County.

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]