



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: AP000000001786

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On March 18, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 1, 2015 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).

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Decision

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NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001786

[REDACTED]
[REDACTED]
[REDACTED]

Issue

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

Did the Marketplace properly determine the amount of income that should be considered in calculating your eligibility for financial assistance?

Procedural History

On January 31, 2015, the Marketplace received your modified application for health insurance.

On February 1, 2015, the Marketplace issued an eligibility determination notice. That notice stated that based on the number of people in your household and a household income of \$34,104.00, you were eligible to receive up to \$151.00 per month in advance premium tax credits and, if you enrolled in a silver level health plan, cost-sharing reductions. You were not eligible for Medicaid because your income was over the allowable limit for that program.

On February 14, 2015, you spoke with the Marketplace's Account Review Unit and appealed that eligibility determination.

On March 18, 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 income for 2015.

On March 24, 2015, the Appeals Unit received a fax containing the requested documentation. The record is now closed.

Findings of Fact

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

- 1) You testified that you plan on filing your 2015 tax return as single and will claim your adult disabled daughter and your [REDACTED] grandchild as dependents on that tax return.
- 2) You testified that you do not plan on taking any deductions on your 2015 tax return.
- 3) Your January 31, 2015 application lists an annual household income of \$34,104.00. This amount consists of \$15,708.00 in pension and annuities as well as \$9,600.00 from Social Security benefits that you receive. The amount also consisted of \$8,796.00 that your adult daughter receives in Social Security benefits.
- 4) You testified that the income amounts listed on your application are correct for 2015.
- 5) You testified that your adult daughter only receives Social Security disability benefits and she will not be filing a tax return.
- 6) You provided a copy of your bank statement which shows a deposit of \$1,309.21 from [REDACTED]. You testified that you receive a payment from your pension plan every month.
- 7) You provided a statement from Social Security entitled, Your New Benefit Amount. The statement lists that for 2015 you will receive a monthly amount of \$800.00.
- 8) You testified that you reside in [REDACTED] County, New York.
- 9) You are the only member of your household seeking insurance through the Marketplace at this time.

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

Applicable Law and Regulations

Household Income

The Marketplace bases its eligibility determinations on modified adjusted gross income (MAGI) as defined in the federal tax code (45 CFR § 155.300(a), 42 CFR § 435.603(e), see 26 USC § 36B(d)(2)(B)).

With regards to eligibility for financial assistance through the Marketplace, a tax filer's household income includes the MAGI of all the individuals in the taxpayer's household who are required to file a federal tax return for the taxable year (26 CFR § 1.36B-1(e)(1); 42 CFR § 435.603(d)(1)). The MAGI-based income of a child who is not required to file a tax return is not included in household income (42 CFR § 435.603(d)(2)).

A person is not required to file a tax return if their gross income is less than the sum of the exemption amount plus the basic standard deduction allowable for that person (26 USC § 6012(1)(A)). For the 2015 year, a dependent who had yearly gross earned income greater than \$6,300.00 or gross unearned income greater than \$1,050.00 would be required to file a tax return (see IRS Revenue Procedure 2014-61).

Unearned income is generally all income other than salaries, wages, and other amounts received as pay for work actually performed, including the taxable part of social security and pension payments (IRS Publication 929, pg 15).

For the purposes of determining a person's eligibility for financial assistance for health insurance through the Marketplace, the term "MAGI" 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)).

For the purposes of determining the amount of taxable income a person receives from Social Security benefits, the IRS gives the term "modified adjusted gross income" the same definition as "adjusted gross income," without regard to certain income that is not relevant here (26 USC § 86(b)(2)). Please note that this definition is different than the definition of MAGI the Marketplace uses.

"Adjusted gross income" means, in the case of an individual taxpayer, gross income minus certain specific deductions, such as expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from savings accounts, and deductions attributable to royalties (26 USC § 62(a)).

“Gross income” is defined as all income from whatever source it is derived from; however, notwithstanding the apparent overall inclusiveness of this definition, there are numerous items that are specifically excluded from gross income (26 USC § 61, 26 USC § 101, *et seq.*). However, none of these exclusions are relevant here.

An individual’s income from Social Security benefits is included in their gross income only to the extent that the sum of the person’s IRS-defined “modified adjusted gross income” and one-half of their Social Security benefits is greater than \$25,000.00 (26 USC § 86(a)(1), (b)(1)), (c)(1)(A)).

Legal Analysis

The only issue is the amount of household income the Marketplace should consider when calculating your eligibility for financial assistance.

At the time of the February 1, 2015 eligibility determination, your application listed an annual household income of \$34,104.00. Your application stated that this amount consists of \$15,708.00 in pension and annuities as well as \$9,600.00 from Social Security benefits that you receive. The amount also consisted of \$8,796.00 that your adult daughter receives in Social Security benefits.

Household income for the purposes of calculating a person’s eligibility for financial assistance to help pay for the costs of health insurance through the Marketplace consists of the modified adjusted gross income of all tax filers in a household who are required to file a tax return.

Since you plan on filing your taxes as single and will claim two dependents on your 2015 tax return, you are in a three-person household. You are required to file a federal income tax return for 2015. You attested to your intent to file a 2015 return when you requested financial support on the Marketplace application therefore, your income is included in the household’s income.

A dependent is required to file a tax return when their earned income is greater than \$6,300.00. According to the information on your application, neither of your dependents will have earned income for the 2015 tax year. Since your dependents have earned income less than \$6,300.00, they are NOT required to file a tax return on the basis of their earned income.

A dependent is also required to file a tax return when their unearned income is greater than \$1,050.00. Unearned income includes the taxable portion of Social Security benefits.

To determine if any portion of a person’s Social Security benefit is taxable, the IRS adds one-half of a person’s income from Social Security to any other income

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that person receives. Any amount in excess of \$25,000.00 is considered taxable income.

At the time of your application, one of your dependents received \$8,796.00 in income from Social Security benefits. Since half of \$8,796.00 would not exceed the \$25,000.00 threshold, your daughter has no unearned income, and is NOT required to file a federal tax return based on her unearned income.

Therefore, the February 1, 2015 eligibility determination is RESCINDED because your daughter's income from Social Security benefits should not have been included in your household's income.

You provided documentation to the Marketplace that shows you receive a monthly income of \$800.00 from Social Security and \$1,309.21 a month from [REDACTED]. Therefore, your monthly income is \$2,109.21 and your expected annual income is \$25,310.52.

Your case is REMANDED to the Marketplace for a redetermination of your eligibility for financial assistance as member of a three-person household, residing in Erie County, and with an annual expected household income of \$25,310.52, and a monthly income of \$2,109.21.

Decision

The February 1, 2015 eligibility determination is RESCINDED.

Your case is REMANDED to the Marketplace for redetermination of your eligibility for financial assistance as member of a three-person household, residing in Erie County, and with an annual expected household income of \$25,310.52.

Effective Date of this Decision: June 26, 2015

How this Decision Affects Your Eligibility

This decision is not a final determination of your eligibility.

Your case is REMANDED to the Marketplace for a redetermination of your eligibility for financial assistance as member of a three-person household, residing in Erie County, and with an annual expected household income of \$25,310.52.

Once a redetermination has been made, the Marketplace will issue you a redetermination notice which will contain further information.

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 1, 2015 eligibility determination is RESCINDED.

This decision is not a final determination of your eligibility.

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Your case is REMANDED to the Marketplace for a redetermination of your eligibility for financial assistance as member of a three-person household, residing in Erie County, and with an annual expected household income of \$25,310.52.

Once a redetermination has been made, the Marketplace will issue you a redetermination notice which will contain further information.

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]