



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: AP000000001831

[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 January 21, 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).

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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NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000001831

[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 were eligible for Medicaid effective March 1, 2015?

Procedural History

On March 14, 2014, the Marketplace issued a notice of eligibility determination that stated you, your spouse, and your son were eligible for Medicaid.

On January 7, 2015, the Marketplace issued a renewal notice that stated it was time to renew your health insurance coverage. The notice stated that based on information from federal and state sources, the Marketplace could not make a decision about whether or not you qualified for continuing financial help in paying for your health coverage. You were directed to update the information in your NY State of Health account by February 15, 2015, or the financial help you were receiving might end.

On January 20, 2015, the Marketplace received your updated application for health insurance.

On January 21, 2015, the Marketplace issued a notice of eligibility determination that stated you, your spouse and your son remained eligible for Medicaid, effective March 1, 2015. This determination was based on a household income of \$18,000.00.

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On February 19, 2015, you spoke with the Marketplace's Account Review Unit and appealed that determination insofar as you were found eligible for Medicaid and ineligible to enroll in a plan and receive an advance premium tax credit (APTC).

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 remained open as the Hearing Officer directed you to submit your business records reflecting income and expenses relating to self-employment for 2014 and 2015. The record was to be closed 15 days after the hearing date, or upon the receipt of the above referenced documents, whichever occurred earlier.

On March 27, 2015, you provided to the Appeals Unit through your Marketplace online account (1) a letter stating, among other things, your desire to be placed back on your Blue Cross Blue Shield (BCBS) platinum plan and that you anticipate that your finances will increase to \$3,000.00 per month, (2) letters from two physicians indicating that you were a current patient and requesting that you remain on your BCBS plan, (3) a notification from ██████ stating that your insurance provider declined to cover your medication and (4) a screenshot of your online account indicating your receipt of a total of \$4,033.30 between January 6, 2015 and March 11, 2015.

The record was closed on April 2, 2015.

Findings of Fact

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

- 1) You testified that you are married and reside with your spouse and two children.
- 2) In your January 20, 2015 application, you attested that you intend on filing your taxes in 2015 with a filing status of "married filing jointly," and anticipate claiming only your son as a dependent.
- 3) In your January 20, 2015 application, you attested to an annual household income as \$18,000.00. This was based on your attestation that you are self-employed and receive approximately \$1,500.00 per month in income.
- 4) You testified at your hearing, that the household income of \$18,000.00 listed on your application was correct but indicated that you expect your income may increase in the coming months.

- 5) On March 27, 2015, you provided a screenshot of your online bank account indicating your receipt of a total of \$4,033.30 between January 6, 2015 and March 11, 2015.
- 6) Your application indicates that you reside in Suffolk County, NY.
- 7) You testified that you were enrolled in a BCBS platinum plan during 2014, but that the plan was cancelled as of December 31, 2014. You further testified that you were simultaneously enrolled in a Fidelis Care Medicaid Managed Care (MMC) plan, but did not use it.
- 8) You testified, and provided documentation indicating, that you desired to remain in the BCBS platinum plan since your doctors did not accept Medicaid, and the prescription medication and oxygen upon which you rely was not coverage under the Fidelis Care MMC plan.

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

Applicable Law and Regulations

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 level (FPL) for the applicable family size (42 CFR §§ 435.119(b), 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 \$19,790.00 for a three-person household (79 Fed. Reg. 3593, 3593).

Financial eligibility for Medicaid for applicants who are currently receiving Medicaid benefits is based on current monthly household income and family size (42 CFR § 435.603(h)(2)); State Plan Amendment (SPA) 13-0055-MM3, as approved by the US Department of Health and Human Services, March 19, 2014).

Most adults determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage, unless the adult loses Medicaid eligibility because of

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citizenship status, lack of state residence, or failure to provide a valid social security number, before the end of a twelve month period. This twelve-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)).

Advance Premium Tax Credit

An individual who is eligible for Medicaid is not eligible for an advance premium tax credit (APTC) (see 45 CFR § 155.305(f)(1)(ii)(B), 26 CFR § 1.36B-2(c)(2)).

Qualified Health Plan

The Marketplace “must permit an applicant to request only an eligibility determination for enrollment in a QHP [qualified health plan] through the [Marketplace]; however, [it] may not permit an applicant to request an eligibility determination for less than all insurance affordability programs” (45 CFR § 155.310(b)).

Legal Analysis

The issue is whether the Marketplace properly determined that you were eligible for Medicaid effective March 1, 2015.

You are in a three-person household. You expect to file you 2015 income taxes as married filing jointly and will claim your son as a dependent on that tax return.

You updated your Marketplace account on January 20, 2015. According to this application, you attested to an expected household income of \$18,000.00 for the 2015 tax year, which was based on your expected self-employment income of \$1,500.00 per month. You also testified to this amount at your hearing, but indicated that you expect your income may increase in the coming months.

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. On the date of your application, the relevant FPL was \$19,790.00 for a three-person household. Since \$18,000.00 is 90.96% of the 2014 FPL, the Marketplace properly found you to be eligible for Medicaid on an expected annual income basis, using the information provided in your application.

However, financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

You provided a screenshot of your online bank account reflecting that you received \$4,033.30 between January 6, 2015 and March 11, 2015. However, the information you provided does not permit a review of amounts you have received in connection with your self-employment on a month to month basis, nor does it include a breakdown of your business expenses for any given month. Moreover, your receipt of the \$4,033.30 in total income over the approximate 3 month period is fairly consistent with your attested income of \$1,500.00 per month.

In New York State, once a person is eligible for Medicaid, that eligibility continues for 12 months, even if the household income rises above 138% of the FPL. This provision is called “continuous coverage.”

Since the January 21, 2015 eligibility determination properly stated that you were eligible for Medicaid effective March 1, 2015, it is correct and is AFFIRMED.

You indicated that you would like to continue to be enrolled a qualified health plan (QHP) during 2015. However, when you are Medicaid eligible, you are not eligible for an advance premium tax credit or cost-sharing reductions to help reduce the cost of a QHP.

If you do not want to receive Medicaid coverage during 2015 and would prefer to purchase a QHP at full cost, you can purchase an unsubsidized health insurance plan through the Marketplace. If you select and enroll in a full-pay QHP, you will be responsible for the full cost of the monthly premiums and all out-of-pocket costs.

Decision

The January 21, 2015 eligibility determination notice is AFFIRMED.

Effective Date of this Decision: August 7, 2015

How this Decision Affects Your Eligibility

Your insurance coverage through Medicaid, effective March 1, 2015, remains in effect.

If you no longer wish to have Medicaid coverage, you can purchase unsubsidized health insurance through the Marketplace. If you select and enroll in a full-pay

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qualified health plan, you will be responsible for the full cost of the monthly premiums and all out-of-pocket costs.

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 January 21, 2015 eligibility determination notice is **AFFIRMED**.

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Your insurance coverage through Medicaid, effective March 1, 2015, remains in effect.

If you no longer wish to have Medicaid coverage, you can purchase unsubsidized health insurance through the Marketplace. If you select and enroll in a full-pay qualified health plan, you will be responsible for the full cost of the monthly premiums and all out-of-pocket costs.

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]