



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

Notice of Decision

Decision Date: July 28, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002091

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED],

On April 21, 2015, you appeared by telephone at a hearing on the NY State of Health's March 19, 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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Appeal Identification Number: AP000000002091

[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 on March 19, 2015 that you are not eligible for Medicaid based on your reported annual income of \$20,540.00?

Procedural History

On March 14, 2015, your written request that the Marketplace redetermine your eligibility was uploaded to your Marketplace account.

On March 18, 2015, based on your updated application, the Marketplace prepared a preliminary eligibility redetermination that you are not eligible for Medicaid.

That same day, you spoke with a representative in the Marketplace's Account Review Unit and appealed that determination insofar as you were not eligible for Medicaid.

On March 19, 2015, the Marketplace issued a notice of eligibility redetermination that was consistent with the March 18, 2015 preliminary redetermination. The notice further stated in relevant part that you are not eligible for Medicaid because the household income you provided of \$20,540.00 is over the allowable income limit of \$16,243.00.

On April 21, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeal Unit. The record was developed during the hearing and held open for up to fifteen days to allow you the opportunity to provide proof of income.

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On April 30, 2015, the Marketplace's Appeals Unit received a three page fax from you consisting of earnings statements from March and April 2015. This three page fax was made part of the record as "Appellant's Exhibit A" and 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 came to the United States as a married person and are presently married with no intention of divorcing.
- 2) You testified that you cannot file a joint tax return because your husband is a Jamaican citizen, does not live or work in the United States, and does not pay taxes here.
- 3) You testified that you were 61 years old at the time of your request.
- 4) You testified that you are the only person in your household, and you do not have any dependents.
- 5) You testified that you expect to file your 2015 taxes as Single, as you have in past years.
- 6) You testified that your reported salary for 2015 of \$20,540.00 no longer accurately reflects your current income because you are working less days and have no set schedule.
- 7) You provided earning statements that show you received gross earnings for March 2015 as follows:
 - 1) On March 20, 2015, for the work period of February 28, 2015 to March 13, 2015, for \$266.40;
 - 2) On March 20, 2015, for the work period of March 1, 2015 to March 7, 2015, for \$311.15; and,
 - 3) On March 27, 2015, for the work period of March 6, 2015 to March 14, 2015, for \$200.25.
- 8) Your other earnings statements reflect that earnings for the remaining work periods in March 2015 were received in April 2015.

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9) You testified that you did not select a health plan through the Marketplace because you cannot afford to pay over \$400.00 per month.

10) You testified that you are most interested in being found eligible for coverage under Medicaid because you cannot afford to pay insurance premiums.

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), 435.911(b)(1), 435.603(d)(4); N.Y. Soc. Serv. Law § 366(1)(b)).

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 by the US Department of Health and Human Services, March 19, 2014).

In an analysis of Medicaid eligibility, the determination is based on the federal poverty level (FPL) “for the applicable budget period used to determine an individual's eligibility” (42 CFR § 435.4). On March 18, 2015, that was the 2015 FPL, which is \$11,770.00 for a one-person household (79 Fed. Reg. 3593, 3593).

If an applicant for health insurance is determined Medicaid eligible, coverage will begin on the first day of the first month for which eligibility is established (18 NYCRR § 360-2.4(c)). The applicant may be determined retroactively eligible for coverage for up to three months prior to the month of the application, if Medicaid eligible during the month when medical care or services were received (*id.*).

Most adults determined eligible for Medicaid are guaranteed twelve months of Medicaid coverage even if they lose 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 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

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eligibility determination or the date of a subsequent Medicaid eligibility determination based on modified adjusted gross income (N.Y. Soc. Serv. Law § 366(4)(c)).

Legal Analysis

The only issue raised on appeal is whether, as of March 18, 2015, you were over income on an annual basis and, therefore, ineligible for Medicaid.

On March 18, 2015, the Marketplace redetermined your eligibility based on your March 14, 2015 request and found, in relevant part, that you were not eligible for Medicaid. The determination was based on your expected annual income of \$20,540.00 as reported on your Marketplace application.

According to the record, you are the only member of your tax household.

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 that is at or below 138.0% of the federal poverty level (FPL) for the applicable family size. On the date of your updated application, the relevant FPL was the 2015 FPL of \$11,770.00 for a one-person household. Since \$20,540.00 is 174.51% of the 2015 FPL, the Marketplace properly found you to be ineligible for Medicaid on an expected annual income basis, using the information provided in your application.

However, at the hearing you testified that your 2014 expected annual household income no longer reflects your current income situation because you are working less hours and have no set schedule.

The credible evidence of record shows during March 2015 you received three pay checks with total gross earnings of \$767.80. Therefore, your monthly income for March 2015 was \$767.80.00. For a one-person household, the applicable FPL at the time of your application was \$11,770.00 and 138% of that FPL is \$16,243.00, or \$1,354.00 per month.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. Since the record suggests that the Marketplace calculated your eligibility as of March 18, 2015 by expected annual income but not by monthly income, your case is being returned to the Marketplace to redetermine your eligibility based on your monthly income for March 2015 of \$767.80.

Decision

The March 19, 2015 eligibility redetermination was correct when made and is AFFIRMED.

However, based on additional evidence supplied at hearing, your case is being RETURNED to the Marketplace to redetermine your eligibility for March 2015 based on a one-person household with a monthly income of \$767.80.

Effective Date of this Decision: July 28, 2015

How this Decision Affects Your Eligibility

This decision does not decide your final eligibility. It gives the Marketplace the additional information that you provided and tells the Marketplace to redetermine your eligibility.

The Marketplace will issue a new eligibility determination.

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 March 19, 2015 eligibility redetermination was correct when made and is **AFFIRMED**.

This decision does not decide your final eligibility. It gives the Marketplace the additional information that you provided and tells the Marketplace to redetermine your eligibility.

The Marketplace will issue a new eligibility determination.

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]