



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

Notice of Decision

Decision Date: August 21, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002126

[REDACTED]

Dear [REDACTED],

On June 10, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's March 20, 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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Decision Date: August 21, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002126

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Issues

The issues presented for review by the Appeals Unit of NY State of Health are:

Did the Marketplace properly determine that you were eligible for Medicaid effective November 1, 2014?

Did the Marketplace properly determine that you were no longer eligible for Medicaid, but would continue to receive Medicaid coverage until October 31, 2015?

Procedural History

On November 17, 2014, the Marketplace received your application seeking financial assistance, and prepared a preliminary eligibility determination in your case. It stated that you are eligible for Medicaid effective November 1, 2014. This preliminary determination was based on an expected income of \$0.00.

Also on November 17, 2014, shortly after you applied for financial assistance, the Marketplace received your non-financial assistance application for health insurance.

On November 27, 2014, the Marketplace issued a notice of eligibility determination based on your second application of November 17, 2014, stating that you were newly eligible to purchase a qualified health plan (QHP) at full cost through New York State of Health. This eligibility was effective January 1, 2015. No determination was issued with regard to the first application of November 17, 2014.

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On March 19, 2015, the Marketplace received your modified application for health insurance seeking financial assistance.

On March 20, 2015, the Marketplace issued a notice of eligibility redetermination stating that you no longer qualified for Medicaid; however, your Medicaid coverage would continue until October 31, 2015.

Also on March 20, 2015, you spoke with the Marketplace's Account Review Unit and appealed that determination insofar as it continued your Medicaid eligibility rather than determine you eligible for a different insurance affordability program.

On June 3, 2015, you were scheduled for a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. At that time, you requested to adjourn your hearing. Your request was granted and your hearing was adjourned to June 10, 2015.

On June 10, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. You were sworn in and waived formal notice to this hearing. The record was developed during the hearing and closed at the end of the hearing.

Findings of Fact

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

- 1) You expect to file your 2015 federal income tax return as single, and claim no dependents.
- 2) You testified, and the record reflects, that you renewed your health insurance coverage on November 17, 2014. The record further reflects that you were preliminarily determined eligible for Medicaid effective November 1, 2014.
- 3) You testified that you spoke to a Marketplace representative on November 17, 2014 who assisted you in renewing your application for 2015 coverage. You further testified that you explained that you are a consultant, and your income is difficult to project. You further testified that you informed the representative that you earned approximately \$11,450.00 in 2014, but expected to earn \$25,000.00 for the 2015 tax year based on anticipated contracts.
- 4) According to the initial application submitted on November 17, 2014, your attested expected household income was \$0.00 for the 2015 tax year, which is comprised of \$1,200.00 in earned income and

\$14,125.00 in deductions. You testified that this is not an accurate reflection of your expected income for the 2015 tax year as discussed with the Marketplace representative.

- 5) The record reflects that, on November 17, 2014, your application was changed from one seeking financial assistance to one no longer seeking financial assistance.
- 6) The record reflects that your application was modified on March 19, 2015 to reflect an expected household income of \$25,000.00 for the 2015 tax year. You testified that this is an accurate reflection of your expected income for 2015. You further testified that you may earn more in 2015 based upon upcoming contract negotiations.
- 7) You testified that you would like to have your eligibility determined based on your expected income for the 2015 tax year.
- 8) You reside in New York County, New York.

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

Applicable Law and Regulations

Medicaid

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)).

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 \$11,670.00 for a one-person household (79 Fed. Reg. 3593).

Most adults determined eligible for Medicaid are guaranteed 12 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 12-month

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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 (N.Y. Soc. Serv. Law § 366(4)(c)).

People who receive or are eligible for Medicaid are not eligible for advance premium tax credits (APTC) since they have, or will soon have, active coverage in the system. They will be enrolled or remain in their Medicaid plan with limited exceptions, including entering prison or another facility that provides medical care, moving out of state, failing to provide a valid social security number, or having third party health insurance (N.Y. Soc. Serv. Law § 366(4)(c)).

Legal Analysis

The first issue under review is whether the Marketplace properly determined that you were eligible for Medicaid effective November 1, 2014.

You are in a one person household. According to the record, you expected to file your 2015 tax return as single and claim no dependents on that tax return.

On the first application you submitted on November 17, 2014, you attested to an expected household income of \$0.00.

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 November 17, 2014, a one-person household with an annual household income of \$0.00 is 0.00% of the FPL, and is therefore eligible for Medicaid.

However, you credibly testified that the income included in your November 17, 2014 application was not an accurate representation of your expected household income for the 2015 tax year as discussed with the Marketplace representative on that date. You further testified that \$25,000.00 is a more accurate representation of your income for the 2015 tax year, though you may earn more depending upon upcoming contract negotiations.

Since the November 17, 2014 preliminary eligibility determination was based on inaccurate income information, it is **RESCINDED**.

The second issue is whether the Marketplace properly determined that you were no longer eligible for Medicaid, but would continue to receive Medicaid coverage until October 31, 2015.

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

As discussed above, there is no evidence to support a finding of Medicaid eligibility as stated in the November 17, 2014 preliminary eligibility determination. Therefore, the March 20, 2015 notice of eligibility determination is also RESCINDED because the continuous coverage policy should not have applied to you and it is not supported by the record.

Decision

The November 17, 2014 preliminary eligibility determination is RESCINDED.

The March 20, 2015 notice of 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 one person, an expected annual income of \$25,000.00, and a county residence of New York County.

Effective Date of this Decision: August 21, 2015

How this Decision Affects Your Eligibility

This is not a final determination of 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 one person, an expected annual income of \$25,000.00, and a county 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.

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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 November 17, 2014 preliminary eligibility determination is RESCINDED.

The March 20, 2015 notice of eligibility determination is RESCINDED.

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

Your case is RETURNED to the Marketplace for a redetermination of your eligibility for financial assistance based on a household size of one person, an expected annual income of \$25,000.00, and a county residence of New York County.

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:

