



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: AP000000002343

[REDACTED]

Dear [REDACTED],

On May 18, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 4, 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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Issue

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

Did the Marketplace properly determine that you and your spouse were no longer eligible for Medicaid effective April 30, 2015 as stated in the March 31, 2015 and April 4, 2015 eligibility redeterminations?

Procedural History

According to your Marketplace account, you and your spouse were eligible for Medicaid from May 1, 2014 to April 30, 2015 and were enrolled in Healthfirst, a Medicaid Managed Care (MMC) plan, as of June 1, 2014.

On March 8, 2015, the Marketplace issued a renewal notice that stated, based on information from federal and state data sources, it could not make a decision about whether or not you and your spouse qualified for financial help paying for your health coverage. The notice informed you to update the information on your Marketplace account by April 15, 2015.

On March 27, 2015, the Marketplace issued a disenrollment notice stating your insurance with Healthfirst will end effective April 30, 2015.

That same day, you uploaded proof of income to your Marketplace account.

On March 31, 2015, the Marketplace issued a notice of eligibility redetermination based on updated income information it had received. The notice stated that, based on a

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household income of \$40,383.00, you and your spouse are eligible to receive up to \$525.00 per month of advance premium tax credits (APTC) and, if you select a silver-level qualified health plan, for cost-sharing reductions (CSR) effective May 1, 2015. The notice further stated that you and your spouse are not eligible because your household income is over the maximum allowable limit for that program.

On April 4, 2015, the Marketplace issued another notice of eligibility redetermination that was consistent with the March 31, 2015 notice of eligibility redetermination.

On April 9, 2015, you spoke with a representative from the Marketplace's Account Review Unit and appealed the eligibility redetermination insofar as the income used to determine your eligibility was not correct and you and your spouse want to be deemed eligible for Medicaid.

On April 24, 2015, the Marketplace granted your request for "aid to continue" and provided you with coverage under Medicaid Fee for Services as of May 1, 2015 and with Healthfirst as of June 1, 2015 through July 31, 2015 pending the outcome of your appeal.

On May 18, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeal Unit. 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 and your spouse have one minor child.
- 2) You and your spouse plan on filing your 2015 federal tax return as Married Filing Jointly and will claim your minor child as a dependent on that return.
- 3) You reside with your family in Queens County, New York.
- 4) According to your 2014 federal tax return and your testimony at hearing, your adjusted gross income on Line 35 of Form 1040 was \$27,083.00 and your Schedule SE showed a net profit of \$40,383.00 (Appellant's Exhibit A, pp. 1, 6).
- 5) You testified that you expect your 2015 adjusted gross income to be comparable to or less than your 2014 adjusted gross income that appears on Form 1040 at Line 35.

- 6) You further testified that you believe the Marketplace made a mistake when it used your 2014 net profit amount taken from your 2014 Schedule SE instead of your adjusted gross income amount of \$27,083.00 from your 2014 Form 1040.
- 7) You want you and your spouse's eligibility to be redetermined based on your expected 2015 adjusted gross income of approximately \$27,083.00.

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 (see 42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 435.603(d)(4)).

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).

Financial eligibility for Medicaid for applicants who *are* currently receiving Medicaid benefits financial eligibility may be based either on current monthly household income and family size or income based on projected annual household income and family size for the remainder of the current calendar year (42 CFR § 435.603(h)(2), but see SPA 13-0055-MM3, as approved March 19, 2014).

Modified Adjusted Gross Income

The Marketplace bases its eligibility determinations on modified adjusted gross income as defined in the federal tax code (45 CFR § 155.300(a)). The term "modified adjusted gross income" 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)).

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“Adjusted gross income” means, in the case of an individual taxpayer, gross income minus certain specific deductions, such as ½ of self-employment tax, expenses reimbursed by an employer, losses from sale or exchange of property, losses from premature withdrawal of funds from time savings accounts, and deductions attributable to royalties (26 USC § 62(a)).

Legal Analysis

At issue is whether the Marketplace correctly found you and your spouse no longer eligible for Medicaid as of April 30, 2015.

Your 2014 tax return reflects that your 2014 adjusted gross income was \$27,083.00 and you testified that your 2015 household income will be comparable or may be a little less.

However, the Marketplace used your self-employment net profit amount of \$40,383.00 from your 2014 Schedule SE when it redetermined your eligibility for financial assistance on March 31, 2015 and again on April 4, 2015. This was done in error since the Marketplace bases its eligibility determinations on modified adjusted gross income less certain deductions and not on self-employment net profit.

The evidence you provided to the Marketplace and your testimony during your hearing credibly establishes that your household’s 2015 expected income will be \$27,083.00, which is a more reliable reflection of your household’s income for that year. An annual income of \$27,083.00 is below the maximum allowable income limit of \$27,775.00 (\$20,090.00 x 138%) for a three person household to be eligible for Medicaid. This is also true based on a monthly income of \$2,256.95, which is below the monthly income limit of \$2,311.00 to be eligible for Medicaid.

The credible evidence of record indicates that on March 27, 2015, your household’s expected annual income for 2015 was \$27,083.00 and your average monthly income was \$2,256.95.

Since a review of the available evidence confirms that the March 31, 2015 and April 4, 2015 eligibility redeterminations are not supported by the record, they are **RESCINDED**.

Your case is **RETURNED** to the Marketplace for a redetermination of you and your spouse’s eligibility based on an expected annual income of \$27,083.00 for a three-person household.

Decision

The March 31, 2015 and April 4, 2015 notices of eligibility determination are RESCINDED.

Effective Date of this Decision: August 21, 2015

How this Decision Affects Your Eligibility

This decision rescinds (cancels) the March 31, 2015 and April 4, 2015 eligibility determinations based on the information that you provided to the Marketplace and at the hearing on May 18, 2015.

Your case is RETURNED to the Marketplace for a redetermination of you and your spouse's eligibility based on an expected annual income of \$27,083.00 for a three-person household.

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):

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Summary

The March 31, 2015 and April 4, 2015 notices of eligibility determination are **RESCINDED**.

This decision rescinds (cancels) the March 31, 2015 and April 4, 2015 eligibility determinations based on the information that you provided to the Marketplace during March 2015 and at the hearing on May 18, 2015.

Your case is **RETURNED** to the Marketplace for a redetermination of you and your spouse's eligibility based on an expected annual income of \$27,083.00 for a three-person household.

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:

