



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

## Notice of Decision

Decision Date: August 27, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002348

[REDACTED]

Dear [REDACTED],

On May 13, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's November 7, 2014 and April 9, 2015 eligibility determinations.

The enclosed Decision, rendered after that hearing, is issued by the Appeals Unit of the 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 the NY State of Health about your appeal and/or the Decision, please refer to the Appeal Identification Number at the top of this letter.

### 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).

This page intentionally left blank.



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

## Decision

Decision Date: August 27, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000002348



## Issues

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

Did the Marketplace properly determine that your daughter was eligible for Medicaid coverage effective January 1, 2015?

Did the Marketplace properly determine that your daughter was not eligible for Medicaid, based on continuous coverage, as of April 9, 2015?

## Procedural History

On November 7, 2014 the Marketplace issued a renewal notice. The notice stated that your spouse is eligible to receive up to \$0.00 monthly of advance premium tax credits and cost-sharing reductions, if you enroll in a silver-level health plan. The notice also stated that your daughter is qualified for health care coverage under Medicaid effective January 1, 2015.

On December 13, 2014 the Marketplace issued you an enrollment confirmation that your daughter was enrolled in HealthPlus, an Amerigroup Company with a premium responsibility of \$0.00 effective January 1, 2015.

On April 8, 2015 you updated your Marketplace account.

On April 9, 2015 the Marketplace issued an eligibility determination notice stating that your spouse is eligible to purchase a qualified health plan at full cost. Your daughter was found no longer eligible for Medicaid. However, her Medicaid would continue until December 31, 2015.

On the same day you spoke to the Marketplace Account Review Unit and requested an appeal insofar as your daughter being eligible for Medicaid.

On May 13, 2015 you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed during that hearing and was left open until May 18, 2015 for you to submit additional documentation.

On May 14, 2015 you submitted a ten-page fax to the Marketplace Appeals Unit. The fax was marked as "Appellant's Exhibit A" and entered into the record. The record is now complete and closed.

## **Findings of Fact**

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

1. You are married and have one child (4/8/2015 Marketplace application; Testimony).
2. Your daughter was born on [REDACTED] (4/8/2015 Marketplace application; Testimony).
3. You expect to file a 2015 federal income tax return with the tax status of married filing jointly and claim one dependent on that return (4/8/2015; Testimony).
4. You have been employed with the same employer for the last fifteen years (Testimony).
5. Your income is consistent and you receive \$4,000.00 in gross income per month (Testimony; Appellant Exhibit A p. 1).
6. You received:
  - (1) \$3,142.19 in net income on December 3, 2014;
  - (2) \$3,142.19 in net income on January 5, 2015;
  - (3) \$3,148.17 in net income on January 30, 2015 (Appellant's Exhibit A p. 2-4).
7. You expect to claim a \$10,000.00 deduction for business losses on your 2015 federal tax return (4/8/2015 Marketplace Application; Testimony).
8. Your spouse is currently employed and has been employed there since August or September of 2014 (Testimony).
9. Your Spouse received:
  - (1) \$1,582.78 in gross income on November 10, 2014;
  - (2) \$1,303.94 in gross income on November 25, 2014;

- (3) \$1,265.19 in gross income on December 10, 2014;
- (4) \$1,404.69 in gross income on December 24, 2014;
- (5) \$1,739.88 in gross income on January 9, 2015;
- (6) \$1,387.25 in gross income on January 23, 2015 (Appellant's Exhibit A pp. 5-10).

10. You expect your spouse to have an average gross monthly income of \$2,700.00 in 2015 (Appellant's Exhibit A p. 1).

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

## **Applicable Law and Regulations**

### Medicaid for an Infant:

Medicaid is available to an infant under one year of age who is in a household with a modified adjusted gross income up to 223% of the current FPL for the applicable family size (see 42 CFR § 435.118(d); NY Department of Health Administrative Directive 13 ADM-03).

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). As 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 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 March 19, 2014).

### Continuous Coverage for Children under the under the age of 19:

Medicaid-eligible children under the age of 19 are provided with 12 months of continuous coverage, even if the household's income increases above eligibility levels during that period (N.Y. Soc. Serv. Law § 366(4)(b)(3)(i)).

## **Legal Analysis**

The current issue is whether the Marketplace properly determined that your daughter was eligible for Medicaid effective January 1, 2015.

On November 7, 2014 the Marketplace issued an eligibility determination notice that, according to information from state and federal data sources, your daughter qualifies for health coverage under Medicaid.

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).

Your daughter would qualify for Medicaid in January 2015 with a household income up to 223% of the federal poverty level (FPL). Since the 2015 FPL is \$20,090.00 for a three-person household, your daughter would qualify with a household income up to \$44,801.00.

In New York State, once a person is eligible for Medicaid, that eligibility continues for 12 months, even if the household income rises above 223% (for children over the age of one and under the age of nineteen) of the FPL. This provision is called "continuous coverage."

On April 8, 2015 you applied for health insurance through the Marketplace based on an annual household income of \$68,000.00. Based on that annual household income, the April 9, 2015 eligibility determination notice found your daughter not eligible for Medicaid. However, her Medicaid would continue until December 31, 2015 based on continuous coverage.

You credibly testified that you have been employed with the same employer for the last fifteen years and consistently receive \$4,000.00 in gross income from this employment. On May 14, 2015 you submitted paychecks that corroborate your testimony that you earn \$4,000.00 gross monthly. Furthermore, you credibly testified that you expect to claim \$10,000.00 as a deduction for business losses on your 2015 federal income tax return.

You credibly testified that your spouse is currently employed and has been employed there since August or September of 2014. On May 14, 2015 you submitted a statement that your spouse expects an average monthly gross income of \$2,700.00 in 2015. On May 14, 2015 you faxed additional documentation to the Appeals Unit that show that your spouse had gross earnings of \$2,886.72 in November 2014; \$2,669.79 in December 2014; and \$3,127.13 in January 2015.

Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size. To be eligible for Medicaid, you would need to meet the non-financial criteria and have an income no greater than 223% of the FPL, which is \$3,734.00 per month. Since your January 2015 income was approximately (\$4,000.00 (+) \$3,127.13 (-) \$833.33) \$6,293.80, your daughter did not qualify for Medicaid.

Since the November 7, 2014 eligibility determination notice improperly states that your daughter is eligible for Medicaid effective January 1, 2015, it is **RESCINDED**.

Since the April 9, 2015 eligibility determination notice determined your daughter eligible for Medicaid based on the finding in the November 7, 2014 eligibility determination notice, it is **RESCINDED**.

The case is RETURNED to the Marketplace for redetermination of your daughter's eligibility based on a household of three with an annual household income of \$70,400.00.

## **Decision**

The November 7, 2014 eligibility determination notice is RESCINDED.

The April 9, 2015 eligibility determination notice is RESCINDED.

Your case is RETURNED to the Marketplace to redetermine your daughter's eligibility based on a household of three with an annual household income of \$70,400.00.

**Effective Date of this Decision:** August 27, 2015

## **How this Decision Affects Your Eligibility**

This decision does not determine your eligibility.

It returns your case to the Marketplace to redetermine your daughter's eligibility based on a household of three with an annual household income of \$70,400.00.

The Marketplace will redetermine your daughter's eligibility and issue a new eligibility determination notice.

## **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 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).

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 7, 2014 eligibility determination notice is RESCINDED.

The April 9, 2015 eligibility determination notice is RESCINDED.

The case is RETURNED to the Marketplace for redetermination of eligibility based on a 2015 income of \$70,400.00.

The Marketplace will redetermine your daughter's eligibility and issue a new eligibility determination notice.

### **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:**

