



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

Notice of Decision

Decision Date: September 3, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002442

[REDACTED]

Dear [REDACTED]

On May 26, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's February 12, 2015 preliminary eligibility determination and February 13, 2015 and April 17, 2015 eligibility determinations.

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).

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: September 3, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000002442

[REDACTED]

Issue

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

Did the Marketplace properly determine you eligible for Medicaid as of February 12, 2015?

Did the Marketplace properly determine that you remained eligible for Medicaid coverage as reflected in the February 13, 2015 and April 17, 2015 eligibility determination?

Procedural History

On February 12, 2015, the Marketplace received several applications in which you requested financial assistance for health insurance. In these applications you provided an expected yearly income figure ranging from \$15,000.00 to \$30,700.00. In response to each of these applications, the Marketplace prepared a preliminary determination. In particular, the applications in which you provided an expected yearly income of \$15,000.00 and \$17,700.00 resulted in a preliminary determination that you were eligible for Medicaid. In the latter instance, you were requested to provide additional document to confirm the information you provided in your application was accurate.

On February 13, 2015, the Marketplace issued an eligibility determination notice that stated “[y]ou were no longer eligible for Medicaid. However, we will continue [your] Medicaid coverage until January 31, 2016.” This determination was effective February 1, 2015. The notice further stated that additional income

documentation was required from you in order to confirm your eligibility. It requested such income documentation by March 1, 2015.

On April 16, 2015, the Marketplace received a revised application in which you provided an increase in your expected yearly income of \$27,200.00

On April 17, 2015, the Marketplace issued an eligibility redetermination notice based on your April 16, 2015 application. It again stated that “[y]ou were no longer eligible for Medicaid. However, we will continue [your] Medicaid coverage until January 31, 2016.” It further stated that this determination was made “because certain individuals who have been determined eligible for Medicaid remain eligible for benefits for twelve continuous months from the date that they were determined eligible.” This eligibility was effective April 1, 2015. You appealed this determination and the February 13, 2015 eligibility determinations insofar as you were found to have remained eligible for Medicaid, and you appealed the February 12, 2015 preliminary eligibility determination insofar as you were initially found eligible for Medicaid.

On May 26, 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 provide as additional evidence to corroborate your testimony: 1) 2014 tax return, (2) last earning statement rec’d from [REDACTED] (3) last earning statement rec’d from [REDACTED]. 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 June 4, 2015, you provided the above-referenced documents, as well as summary of net payments made to you by the [REDACTED] during 2015, to the Appeals Unit through via facsimile.

Findings of Fact

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

- 1) You testified, and your application reflects, that you are divorced and that your daughter, [REDACTED], lives you.
- 2) You testified that you plan to file a U.S. Income Tax return for the 2015 plan year and expect that you will file as “head of household”. You further testified that you anticipate claiming your daughter as a dependent during 2015.
- 3) Your application indicates that only you are seeking health insurance under your Marketplace account.

- 4) You testified that you attempted to provide your 2014 tax information within your application, but that it would not accept the expected yearly income information you provided. You further testified that as a result, you provided your 2013 tax information.
- 5) You testified, and provided your 2014 U.S. Income Tax return, which reflects that your adjusted gross income was \$21,797.00.
- 6) You testified, and your application reflects, that you had been receiving insurance coverage under COBRA during the months of January and February 2015.
- 7) On February 12, 2015, the Marketplace prepared a preliminary eligibility determination finding you eligible for Medicaid beginning February 1, 2015.
- 8) You testified that you did not want to be on Medicaid because your physician does not accept this program.
- 9) In the February 12, 2015 applications, you included a deduction of \$10,000.00 relating to tuition and fees, but testified that you would not be claiming this deduction on your federal tax return, but rather just your New York State return.
- 10) You testified that you expect to earn approximately \$12,000.00 from the [REDACTED] during 2015. You further testified that your expected earnings are a rough approximation since you earn income at two different rates: \$50.00 per hour [REDACTED] and \$33.00 per hour [REDACTED].
- 11) You testified that you earn \$33.61 per hour from [REDACTED] and that you have worked 202 hours to date. You estimated that you expect to work another 250 hours for [REDACTED] during 2015.
- 12) You testified that you will receive approximately \$13,000.00 in ordinary dividends relating to investments you have.
- 13) You testified that you will receive \$700.00 taxable interest relating to investments you have.
- 14) You testified that you expect to claim \$200.00 in the deductible part of self-employment in connection with your work with the [REDACTED] since you are an independent contract for that entity.

- 15) You testified that you expect to claim \$1,222.00 in deductions for self-employment health insurance, since you paid for two months of COBRA coverage at \$611.00 per month.
- 16) You testified that you expect to claim \$1,500.00 in deductions relating to your travel costs with the [REDACTED]
- 17) You testified, and your application reflects, that you live in Westchester County.

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 for the applicable family size (42 CFR § 435.119(b), 42 CFR § 435.911(b)(1), 42 CFR § 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 2015 FPL, which is \$15,930.00 for a two-person household (80 Fed. Reg. 3236, 3237).

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 12-month period. This 12-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 (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 February 1, 2015.

You are in a two-person household. According to the record, you expect to file your 2015 tax return as head of household and claim your daughter as your sole dependent.

On February 12, 2014, in four separate applications, you attested to a range of expected yearly income of between \$15,000.00 and \$30,700.00. On that same date, based on the February 12, 2015 application in which you attested to an expected yearly income of \$15,000.00, the Marketplace prepared a preliminary eligibility determination finding that you qualified for Medicaid coverage effective February 1, 2015.

You testified, however, that the \$15,000.00 in expected yearly income included within the February 12, 2015 application was entered in error and does not reflect your actual expected annual earnings and deductions for 2015. You further testified that when prompted by the Marketplace you attempted to provide your 2014 tax information, but were unable to do so. You provided, at the Hearing Officer's request, a copy of your U.S. Individual Tax return for 2014. This document reflected that your adjusted gross income for 2014 was \$21,797.00.

The credible evidence of record indicates that you anticipate \$40,891.72 income during 2015 from several sources: (1) \$12,000.00 from the [REDACTED], (2) \$15,191.72 (\$33.61 x 452 hours) from [REDACTED], (3) \$13,000.00 in ordinary dividends relating to your investments and (4) \$700.00 in taxable interest. The record also reflects that this income will be offset by a total of \$2,922.00 in claimed deductions, including: (1) \$200.00 for self-employment in connection with work performed with the [REDACTED], (2) \$1,222.00 for self-employment health insurance, and (3) \$1,500.00 in deductions relating to your travel costs with the [REDACTED].

You further testified that you no longer anticipated claiming a deduction of \$10,000.00 relating to tuition and fees.

Accordingly, your anticipated income during 2015 is accurately reflected as \$37,969.72.

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% of the federal poverty level (FPL) for the applicable family size.

On February 12, 2015, a two-person household with an annual household income of \$37,969.72 was at 238.35% of the FPL, and therefore was ineligible for Medicaid. Accordingly, since the record does not support your eligibility for

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).

Medicaid as reflected in the February 12, 2015 preliminary determination, it is hereby RESCINDED.

The February 13, 2015 and March 24, 2015 eligibility determinations, each of which are based on the February 12, 2015 preliminary determination finding you Medicaid eligible, are no longer supported by the record and are also RESCINDED.

Since your eligibility for financial support was not properly determined on your February 12, 2015 application, your case is returned to the Marketplace for a redetermination of eligibility using a two-person household in Westchester County, with an expected 2015 income of \$37,969.72.

Decision

The February 12, 2015 preliminary determination is RESCINDED.

The February 13, 2015 and March 24, 2015 eligibility determinations are RESCINDED.

Since your eligibility for financial support was not properly determined on your February 12, 2015 application, your case is returned to the Marketplace for a redetermination of eligibility using a two-person household in Westchester County, with an expected 2015 income of \$37,969.72.

You are being granted a special enrollment period of 60 days from the date the Marketplace issues an eligibility redetermination in your case.

Effective Date of this Decision: September 3, 2015

How this Decision Affects Your Eligibility

You will receive a new determination from the Marketplace based on the information in the now developed record.

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

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).

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 February 12, 2015 preliminary determination is RESCINDED.

The February 13, 2015 and March 24, 2015 eligibility determinations are RESCINDED.

Since your eligibility for financial support was not properly determined on your February 12, 2015 application, your case is returned to the Marketplace for a redetermination of eligibility using a two-person household in Westchester County, with an expected 2015 income of \$37,969.72.

You will receive a new determination from the Marketplace based on the information in the now developed record.

You are being granted a special enrollment period of 60 days from the date the Marketplace issues an eligibility redetermination in your case.

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).

Legal Authority

We are sending you this notice in accordance with federal regulation 45 CFR § 155.545(a).

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).

A Copy of this Decision Has Been Provided To:

