



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: AP000000002449

[REDACTED]

Dear [REDACTED],

On May 19, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 17, 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).

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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 are eligible for an advance premium tax credit of up to \$281.00 per month, eligible for cost-sharing reductions, and ineligible for Medicaid as of April 16, 2015?

Procedural History

On November 15, 2014, the Marketplace received your initial application for health insurance. On your application, you indicated that your household income was \$0.00 and your spouse was looking for help paying for medical bills for the last three months.

That same day, the Marketplace prepared a preliminary eligibility determination that you and your spouse were eligible for Medicaid as of November 4, 2014.

On December 5, 2014, the Marketplace issued a notice of eligibility determination that was consistent with the November 15, 2014 preliminary determination. The notice informed that you and your spouse needed to pick a health plan. It also noted that your spouse wants the Marketplace to review your application to see if he is eligible for Medicaid coverage for medical bills within the three months prior to your application and informed you that additional information regarding your spouse's income is needed for the period of August 1, 2014 to October 31, 2014 by November 30, 2014.

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On December 18, 2014, the Marketplace issued an enrollment notice confirming that you and your spouse had insurance coverage through Medicaid Fee For Services (FFS) effective November 1, 2014, and would be enrolled in Healthfirst, a Medicaid managed care (MMC) plan, beginning December 1, 2014. The notice also stated that your spouse needed to confirm proof of income by December 2, 2014.

On April 16, 2015, you called the Marketplace to again request help with past medical bills. With the help of a Marketplace representative, your application was updated, including current income information.

That same day, the Marketplace prepared an eligibility redetermination that you remain Medicaid eligible as of April 1, 2015, and your spouse is now eligible for advance premium tax credits of up to \$281.00 per month and cost sharing reductions effective June 1, 2015 based on an expected annual income of \$25,680.00.

Also that same day, you spoke with a representative from the Marketplace's Account Review Unit and appealed that determination insofar as your husband was denied continuous coverage under Medicaid.

On April 17, 2015, the Marketplace issued a notice of eligibility redetermination that you are no longer eligible for Medicaid but will remain in continuous coverage until October 31, 2015 and your spouse is now eligible to receive up to \$281.00 per month of advance premium tax credits and, if he selects a silver-level qualified health plan, for cost-sharing reductions, effective June 1, 2015.

That same day, the Marketplace issued a disenrollment notice that your spouse's coverage with Healthfirst, the MMC plan in which he was enrolled, will end effective May 31, 2015.

On May 13, 2015, the Marketplace issued an enrollment notice that you are enrolled in Healthfirst, an MMC plan, as of April 1, 2015 and your spouse was enrolled in Healthfirst Silver with a monthly premium responsibility of \$119.37 after the APTC of \$281.00 was applied. The notice also stated that your spouse's coverage could begin as early as June 1, 2015, provided he paid the monthly premium responsibility on time.

On May 19, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was developed and held open for up to fifteen days to allow you to provide proof of household income.

On June 15, 2015, the Appeals Unit received a three page fax from you that consisted of (1) A cover page with an explanation for lateness and request that it be excused; (2) A copy of your spouse's 2014 Form SSA – 1099 - Social Security Benefit Statement; and (3) A copy of your spouse's Social Security benefits increase in 2015. The Appeals Unit accepted your explanation for lateness and permitted your documents to be

submitted into the record. Accordingly, your three page fax was made part of the record as "Appellant's Exhibit A."

Since the evidence that you were directed to provide was received, 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 and your spouse have no dependents and, as a married couple with only Social Security income from your spouse, you are not required to file and do not plan on filing a federal tax return in 2015.
- 2) According to your Marketplace account and your testimony, you had \$0.00 income in 2014 and expect it to be the same for 2015.
- 3) You testified that your husband was deemed 100% disabled in 2011 and began receiving Social Security Disability Benefits in 2013.
- 4) According to the 2014 Form SSA 1099 you submitted, your spouse received Social Security benefits of \$18,945.00 that year, or \$1,578.75 per month (Appellant's Exhibit A, p. 2).
- 5) According to your Marketplace account, your spouse now receives \$2,140.00 in Social Security benefits per month, or \$25,680.00 annually (Appellant's Exhibit A, p. 3).
- 6) You testified that you were assisted by a certified account counselor (CAC) on November 16, 2014, and don't know why your husband's 2014 Social Security benefits were not reported on the application at that time.
- 7) You testified that you were told by your CAC that your and your spouse's Medicaid would begin December 1, 2014, and you were not aware that it began November 1, 2014. Since you were not aware that you had Medicaid coverage in November 2014, you testified that you paid out-of-pocket for doctors' visits in November 2014.
- 8) You testified that you were also told by the CAC that you and your spouse would be covered under Medicaid for one year.

- 9) You contacted the Marketplace on April 16, 2015, to find out about getting retroactive Medicaid coverage for medical costs you and your spouse incurred in August, September, and October 2014. You testified that you were told by a Marketplace representative that you had not provided income documents as required.
- 10) When you spoke with the same representative a second time, you were told you had been granted an extension until May 31, 2015 to submit documents, but you did not know what the Marketplace wanted from you.
- 11) The Hearing Officer explained that you needed to provide proof of income for August, September, and October 2014, in order for your request for retroactive Medicaid to be reviewed by the Marketplace.
- 12) You testified that you did not have an income tax return because you and your spouse do not file but had a 1099 Social Security Benefit Statement for 2014. You were directed to submit a copy to prove your household income for 2014, and you did.
- 13) You would like your husband to be put back into Medicaid from June 1, 2015 until October 31, 2015; want to be refunded for the monthly premiums paid for his health coverage as of June 1, 2015; want your case reviewed for retroactive Medicaid for the months of August, September, and October 2014; and, want to be reimbursed for out-of-pocket expenses you incurred in November 2014.
- 14) According to your marketplace application, you are currently 53 years old and your spouse is 55 years old.
- 15) You and your spouse currently reside in Suffolk 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 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

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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)).

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 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 an Advance Premium Tax Credit (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 (see 45 CFR § 155.305(f); 26 CFR 1.36B-2; N.Y. Soc. Serv. Law § 366(4)(c)).

Legal Analysis

The only issue raised on appeal is whether, as of April 17, 2015, your spouse was eligible for up to \$281.00 per month in advance premium tax credit (APTC), eligible for cost-sharing reductions (CSR), and ineligible for Medicaid.

Your household consists of you and your husband. Therefore you have a two-person tax household for purposes of this analysis.

You attested to having no income in 2014 on your November 16, 2014 application; however, you had assistance with completing your application so this information may have been inadvertently left off. Notwithstanding the Marketplace relied upon the zero income reported and on November 15, 2014, determined your and your spouse's eligibility on your application and found that you were both eligible for Medicaid

coverage. On December 5, 2014, the Marketplace issued a notice confirming your Medicaid eligibility. That determination has not been appealed.

At the hearing, however, the Hearing officer learned that your only source of income in 2014 was your spouse's Social Security Disability benefits of \$18,945.00. To qualify for Medicaid coverage, a household of two people must meet the financial and nonfinancial Medicaid criteria during the month in which they apply. The financial standard for an adult is a modified adjusted gross income that is at or below 138% of the federal poverty level for the applicable family size. On November 15, 2014, that was the 2014 FPL, which is \$15,730.00 for a two-person household. Since \$21,707.40 is 138% of \$15,730.00, you and your spouse would qualify for Medicaid with a 2014 household income of \$18,945.00, which is 114.58% of the FPL for a two-person household.

Since you and your spouse qualified for Medicaid, you both also qualified for 12 months of continuous Medicaid coverage. This coverage was in effect during April 2015, making you and your spouse ineligible for ATPC and CSR on April 16, 2015. This is so regardless of an increase in your 2015 income. Therefore, the April 17, 2015 notice of eligibility determination is not supported by the record and is MODIFIED to rescind that portion that pertains to your spouse's eligibility only.

You did not appeal not having retroactive Medicaid determined for your spouse for August, September, and October 2014. During your hearing however, you indicated that you were also seeking assistance with medical bills for your spouse that were incurred before your application was submitted. A person who is Medicaid eligible can be considered for retroactive assistance for up to three months immediately before the month of the Medicaid application.

To determine which three months can be considered, the Marketplace looks to the date of your successful Medicaid application and the date your Medicaid eligibility began. If an applicant for health insurance is determined Medicaid eligible, coverage begins on the first day of the first month for which eligibility is established. According to the record, you and your spouse were determined eligible for Medicaid on November 15, 2014 with an effective date beginning on November 1, 2014. Therefore, your spouse can be considered for retroactive coverage for the months of August, September, and October 2014.

To qualify for retroactive coverage in a given month, a person must meet the financial and nonfinancial Medicaid criteria during that month. The financial standard for an adult is a modified adjusted gross income that is at or below 138% of the federal poverty for the applicable family size.

Since you have provided the necessary income document as directed by the Hearing Officer as proof of your household's 2014 income of \$18,975.00, or \$1,578.75 monthly, your case is returned to the Marketplace to determine if your spouse qualifies for retroactive Medicaid during August, September, and October 2014 based on a two-person household and a monthly income of \$1,578.75.

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Decision

The Marketplace's April 17, 2015 eligibility determination is MODIFIED to rescind your spouse's eligibility for APTC and CSR effective June 1, 2015 and, instead, to state that your spouse's Medicaid coverage continues in effect from November 1, 2015 through October 31, 2015.

Effective Date of this Decision: September 3, 2015

How this Decision Affects Your Eligibility

Your spouse is eligible for Medicaid coverage beginning November 1, 2014 through October 31, 2015.

Your spouse is not eligible for an advance premium tax credit or cost-sharing reductions while he is eligible for Medicaid.

Your spouse may be eligible for retroactive Medicaid benefits for the months of August, September, and October 2014. Your case is returned to the Marketplace to determine if your spouse qualifies for retroactive Medicaid during these three months based on a two-person household and a monthly income of \$1,578.75.

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)).

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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 Marketplace's April 17, 2015 eligibility determination is MODIFIED to rescind your spouse's eligibility for APTC and CSR effective June 1, 2015 and, instead, to state that your spouse's Medicaid coverage continues in effect from November 1, 2015 through October 31, 2015.

Your spouse is eligible for Medicaid coverage beginning November 1, 2014 through October 31, 2015.

Your spouse is not eligible for an advance premium tax credit or cost-sharing reductions while he is eligible for Medicaid.

Your spouse may be eligible for retroactive Medicaid benefits for the months of August, September, and October 2014. Your case is returned to the Marketplace to determine if your spouse qualifies for retroactive Medicaid during these three months based on a two-person household and a monthly income of \$1,578.75.

Legal Authority

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A Copy of this Decision Has Been Provided To:

