



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: AP000000002519



Dear [REDACTED],

On May 26, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 15, 2015 and April 21, 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 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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Issues

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

Did the Marketplace properly determine that you are not eligible for Medicaid?

Did the Marketplace properly determine that you are not eligible for a special enrollment period (SEP)?

Procedural History

The Marketplace received your application for health insurance on April 14, 2015.

On April 15, 2015, the Marketplace issued an eligibility determination stating that you are conditionally eligible to receive up to \$224.00 monthly of advance premium tax credits (APTC) and conditionally eligible to receive cost-sharing reductions, if you select a silver-level qualified health plan. You were found not eligible for Medicaid because your household income is over the allowable income limit. The notice directed you to submit documentation to confirm your incarceration status by July 13, 2015. Your daughter was found eligible to enroll through Child Health Plus with a \$9.00 premium per month.

On the same day you uploaded employment documentation to your Marketplace account.

On April 20, 2015, the Marketplace reran your eligibility for health insurance through the Marketplace.

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On April 21, 2015, the Marketplace issued a notice of eligibility determination stating that you are eligible to receive up to \$224.00 monthly of advance premium tax credits and cost-sharing reductions, if you select a silver-level qualified health plan. You were found not eligible for Medicaid because your household income is over the allowable income limit. Your daughter was found eligible to enroll through Child Health Plus with a \$9.00 premium per month.

On the same day you spoke to the Marketplace Account Review Unit and requested an appeal insofar as your eligibility for Medicaid and a SEP.

On April 22, 2015, the Marketplace issued an appeal request confirmation stating that the reason for your appeal was denial of a SEP.

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 closed at the end of the hearing.

Findings of Fact

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

1. You are applying for health insurance through the Marketplace for yourself and your daughter.
2. Your daughter was determined eligible for Child Health Plus with a \$9.00 monthly premium.
3. You testified that you plan on filing a 2015 federal income tax return with the tax status of Head of Household and will claim one dependent on that return.
4. You submitted a letter from [REDACTED] stating that you have been employed with the company since January 8, 2015.
5. According to your April 15, 2015 Marketplace application, your expected annual household income is \$30,000.00.
6. You testified that you consistently earn \$1,150 biweekly from [REDACTED].
7. You reside in Bronx County, New York.
8. You testified that you were not aware that there was a deadline to apply for health insurance through the Marketplace.

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 (MAGI) that is at or below 138% of the Federal Poverty Level (FPL) 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).

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).

Open Enrollment Period:

The Marketplace must provide an initial open enrollment period and annual open enrollment periods during which qualified individuals may enroll in a QHP and enrollees may change QHPs (45 CFR §155.410(a)). “For the benefit year beginning on January 1, 2015, the annual open enrollment period begins on November 15, 2014, and extends through February 15, 2015.” (45 CFR §155.410(e)(1)).

Special Enrollment Period:

After each open enrollment period ends, the Marketplace provides special enrollment periods to qualified individuals. During a special enrollment period, a qualified individual may enroll in a QHP and an enrollee may change to another QHP. A special enrollment period may be permitted when one of the following triggering events occurs:

- 1) The qualified individual or his or her dependent

- i) loses health insurance considered to be minimum essential coverage
 - ii) is enrolled in a non-calendar-year group health plan or individual health insurance coverage, even if they have the option to renew the policy
 - iii) loses pregnancy-related coverage
 - iv) loses medically needy coverage
- 2) The qualified individual gains a dependent or becomes a dependent through marriage, birth, adoption, placement for adoption, or placement in foster care
 - 3) The qualified individual or his or her dependent, who was not previously a citizen, national, or lawfully present individual gains such status
 - 4) The qualified individual's or his or her dependent's, enrollment or non-enrollment in a QHP is unintentional, inadvertent, or erroneous and is the result of the error, misrepresentation, or inaction of an officer, employee, or agent of the Exchange or HHS, or its instrumentalities as evaluated and determined by the Exchange
 - 5) The enrollee or dependent adequately demonstrates to the Exchange that the QHP in which he or she is enrolled substantially violated a material provision of its contract in relation to the enrollee
 - 6) The enrollee or enrollee's dependent is newly eligible or ineligible for advance payments of the premium tax credit, or change in eligibility for cost-sharing reductions
 - 7) The qualified individual, enrollee, or their dependent, gains access to new QHPs as a result of a permanent move
 - 8) The qualified individual who is an Indian may enroll in a QHP or change from one QHP to another one time per month
 - 9) The qualified individual or enrollee, or their dependent, demonstrates to the Exchange, in accordance with guidelines issued by HHS, that the individual meets other exceptional circumstances as the Exchange may provide
 - 10) A qualified individual or enrollee, or his or her dependents, was not enrolled in QHP coverage or is eligible for but is not receiving advance payments of the premium tax credit or cost-sharing reductions as a result of misconduct on the part of a non-Exchange entity providing enrollment assistance or conducting enrollment activities

(45 CFR § 155.420(d)).

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Legal Analysis

The first issue is whether the Marketplace properly determined that you were not eligible for Medicaid.

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 the date of your application, the relevant FPL was \$15,930.00 for a two-person household. Since \$30,000.00 is 188.32% of the 2015 FPL, the Marketplace properly found you to be not eligible for Medicaid on an expected annual income basis, using the information provided in your application.

You submitted a letter from [REDACTED] stating that you have been employed with the company since January 8, 2015. You credibly testified that you consistently earn \$1,150 biweekly from [REDACTED].

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 138% of the FPL, which is \$1,832.00 per month for a two-person household. Since your monthly income of (\$1,150 X 2) \$2,300.00 exceeds the income limit, you are not eligible for Medicaid.

Since the April 21, 2015 eligibility determination properly stated that, based on the information you provided you were not eligible for Medicaid, it is correct and is AFFIRMED.

The Marketplace provided an open enrollment period from November 15, 2014 until February 15, 2015. The record indicates that you were not enrolled in a plan during the open enrollment period.

Once the annual open enrollment period ends, a health plan enrollee must qualify for a special enrollment period in order to enroll in a health plan offered in the Marketplace. Here, you requested a special enrollment period on April 14, 2015. You testified that you were not aware that there was a deadline to enroll in a health plan through the Marketplace.

No evidence has been offered, or argument made, to support granting of a special enrollment period under the provisions of CFR § 155.420(d).

Since the credible evidence of record confirms that you were not eligible for Medicaid and not eligible for a special enrollment period, the April 15, 2015

notice of eligibility redetermination insofar as stating that you are not eligible for a special enrollment period is correct and AFFIRMED.

Decision

The April 15, 2015 eligibility determination notice insofar as stating that you are not eligible for a special enrollment period is AFFIRMED.

The April 21, 2015 eligibility determination notice insofar as stating that you are not eligible for Medicaid is AFFIRMED.

Effective Date of this Decision: August 27, 2015

How this Decision Affects Your Eligibility

This decision does not change your eligibility.

You are not eligible for Medicaid.

You are not eligible for a special enrollment period to enroll in a health plan through the Marketplace.

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.

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If You Have Questions about this Decision (Customer Service Resources):

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Summary

The April 15, 2015 eligibility determination notice insofar as stating that you are not eligible for a special enrollment period is AFFIRMED.

The April 21, 2015 eligibility determination notice insofar as stating that you are not eligible for Medicaid is AFFIRMED.

You are not eligible for Medicaid.

You are not eligible for a special enrollment period to enroll in a health plan through the Marketplace.

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:

