



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

## Notice of Decision

Decision Date: December 10, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003293

[REDACTED]

Dear [REDACTED],

On October 27, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's June 3, 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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## Decision

Decision Date: December 10, 2015

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003293

[REDACTED]

## Issues

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

Did the Marketplace properly determine on June 3, 2015 that you were no longer eligible for Medicaid effective June 1, 2015?

Did the Marketplace properly determine that despite being over the income threshold for Medicaid you would remain covered until March 31, 2016 under continuous coverage?

## Procedural History

On February 13, 2015, the Marketplace received your application for financial assistance.

On February 14, 2015, a notice was issued stating that you needed to provide more information in order to make an eligibility determination. You were asked to provide documentation to verify your income by March 3, 2015. Your husband was found ineligible for health coverage because based on federal and state data sources, he already was enrolled or eligible for a public insurance program such as Medicare.

On that same day your account was modified to reflect an attested expected annual income of \$15,888.00.

On April 6, 2015, an eligibility redetermination was made finding you eligible for Medicaid effective April 1, 2015. This was because your reported household income of \$15,932.40 was at or below the allowable income limit of \$21,984.00.

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On April 7, 2015, an enrollment confirmation notice was issued which stated that you had not chosen a plan yet, and that your insurance coverage through Medicaid will begin April 1, 2015, but you must choose a health plan soon or one will be chosen for you.

On June 4, 2015, the Marketplace issued a notice of eligibility determination based upon your June 3, 2015 application stating that you are no longer eligible for Medicaid. However, your Medicaid coverage would continue until March 31, 2016 because certain individuals determined eligible for Medicaid remain eligible for benefits for twelve continuous months from the date that they were determined eligible. This eligibility was effective as of June 1, 2015. The eligibility determination was based upon a reported household income of \$24,562.40.

That same day you spoke to the Marketplace's Account Review Unit and appealed the enrollment confirmation notice insofar as it determined you continuously eligible for Medicaid and that you should be allowed to remain enrolled in your Medicaid Managed Care plan during your continuous coverage period.

On October 27, 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 expect to file your 2015 federal income tax return as married filing jointly, and claim no dependents.
- 2) According to the June 3, 2015 application, you attested to an expected household income of \$24,562.40. You testified that, at the time you submitted your application, this income was an accurate reflection of your expected income for the 2015 tax year.
- 3) You testified that your husband is currently eligible for and receiving Medicare.
- 4) Your husband currently receives \$15,932.40 in Social Security Benefits.
- 5) You currently receive \$8,630.00 a month in Social Security Title II benefits.

- 6) You testified that you were in the process of applying for Medicare, but were not sure what the status of your application was.
- 7) You testified that you would like your eligibility redetermined in order for you to remain enrolled in your Medicaid Managed Care plan.

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 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)).

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).

### Continuous Coverage

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)).

## 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)).

“Adjusted gross income” means, in the case of an individual taxpayer, gross income minus certain specific deductions, such as 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)).

Generally, gross income does not include “amounts received through accident or health insurance (or through an arrangement having the effect of accident or health insurance) for personal injuries or sickness (other than amounts received by an employee, to the extent such amounts (A) are attributable to contributions by the employer which were not includible in the gross income of the employee, or (B) are paid by the employer)” (26 USC § 104(a)(3)).

*Married couples.* In the case of a married couple living together, each spouse will be included in the household of the other spouse, regardless of whether they expect to file a joint tax return under section 6013 of the Code or whether one spouse expects to be claimed as a tax dependent by the other spouse. (42 CFR § 435.603 (f)(4)).

## Affordability Exemption

Under some circumstances, a person may receive an exemption from paying a penalty for not purchasing health insurance coverage. Such an exemption may be granted if that person can show that he or she experienced a financial hardship or has domestic circumstances that (1) caused an unexpected increase in essential expenses that prevented that person from obtaining health coverage under a Qualified Health Plan (QHP); (2) would have caused the person to experience serious deprivation of food, shelter, clothing, or other necessities, as a result of the expense of purchasing health coverage under a QHP; or (3) prevented that person from obtaining coverage under a QHP (45 CFR § 155.605(a), (g)).

NY State of Health has deferred to the U.S. Department of Health and Human Services (HHS) on the matter of hardship exemptions (see 45 CFR § 155.505(c)).

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## Legal Analysis

The first issue presented for the NY State of Health Appeals Unit is did the Marketplace properly determine on June 3, 2015 that you would no longer remain eligible for Medicaid effective June 1, 2015?

On February 13, 2015, the Marketplace received your application for financial assistance.

On February 14, 2015, a notice was issued stating that you needed to provide more information in order to make an eligibility determination. You were asked to provide documentation to verify your income by March 3, 2015. You subsequently provided that income information and were deemed eligible for Medicaid starting April 1, 2015. This was based on a reported expected annual household income of \$15,888.00. You then updated your application on June 3, 2015 to include an increase in the amount of income you expected to receive. The new amount that you attested to was \$24,562.40.

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 for the applicable family size. On the date of your application, that was the 2015 federal poverty level, which is \$15,930.00 for a two-person household.

According to the record, you expect to file your 2015 tax return as married filing jointly and claim no dependents. You are in a two-person household for purposes of the Marketplace as you currently reside with and plan to file your taxes with your husband.

You would qualify for Medicaid if you met the nonfinancial criteria and had a household income no higher than 138% of the federal poverty level for a two-person household. Since the 2015 federal poverty level for a two-person household is \$15,930.00, you would be eligible for Medicaid at an annual income of up to \$21,984.00.

Your updated application on June 3, 2015 stated that you were now receiving additional income from Social Security in the amount of \$24,562.40. You verified through your testimony that your household income now consists of your husband's income of \$15,932.40 in Social Security Title II benefits as well as \$8,630.00 a month that you receive in Social Security Title II benefits.

Therefore, the Marketplace correctly determined that, with a combined total household income of \$24,562.40, you were now over the income threshold of

\$21,984.00 for a two-person household in 2015. As a result you were no longer eligible for Medicaid.

The second issue is whether the Marketplace properly determined that despite no longer being eligible for Medicaid you would continue to receive Medicaid coverage until March 31, 2016?

Under New York State law, once a person is eligible for Medicaid, that eligibility generally continues for 12 months, even if the household income rises above 138% of the FPL. This provision is called “continuous coverage.”

On April 6, 2015, an eligibility redetermination was made finding you eligible for Medicaid effective April 1, 2015. The record reflects that on June 3, 2015 you changed the income amount in your application because you had begun to receive additional income that what you had attested to in February of \$15,888.00. Since you were correctly determined eligible for Medicaid based on the application you submitted on February 13, 2015, you remain eligible for Medicaid for 12 continuous months regardless of any increases in your household income. Twelve months from April 1, 2015 would be March 31, 2016.

Since the Marketplace properly determined you no longer eligible for Medicaid as of June 1, 2015, and therefore eligible for continuous coverage until March 31, 2016, the June 3, 2015 eligibility determination is AFFIRMED.

## **Decision**

The June 3, 2015, eligibility determination is AFFIRMED.

**Effective Date of this Decision:** December 10, 2015

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

You remain eligible for Medicaid until March 31, 2016.

## **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

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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  
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Albany, NY 12211
- By fax: 1-855-900-5557

### **Summary**

The June 3, 2015, eligibility determination is AFFIRMED.

You remain eligible for Medicaid until March 31, 2016.

### **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:**

