



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

Notice of Decision

Decision Date: November 25, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003355

[REDACTED]

Dear [REDACTED],

On August 26, 2015 you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 5, 2015 and May 29, 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 Code of Federal Regulation (CFR) 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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Decision Date: November 25, 2015

NY State of Health Number: [REDACTED]
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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 were not eligible for retroactive Medicaid coverage for the month of August 2014?

Procedural History

On November 10, 2014, the Marketplace received an application in which you attested to an expected yearly income of \$19,336.00. You also stated that you were also seeking help paying medical bills you received for the previous three months.

On November 27, 2014, the Marketplace issued several eligibility determination notices. At least one stated that you were conditionally eligible for Medicaid because your household income of \$19,336.00 was at or below the allowable income limit. That notice requested that you provide to the Marketplace "Benefit information for Third Party Health Insurance (*sic*)" before October 23, 2014. Your eligibility was effective as of October 1, 2014.

Also on November 27, 2014, the Marketplace issued an eligibility determination notice based on a November 10, 2014 application. It stated that you were fully eligible for Medicaid because your household income of \$19,336.00 was at or below the allowable income limit for that program. This eligibility was effective as of November 1, 2014.

On December 11, 2014, the Marketplace received several earnings statements issued to you by your employer, [REDACTED], during the months of August and September 2014.

On May 5, 2015, the Marketplace issued two notices stating that you were determined eligible for retroactive Medicaid coverage during September 2014 since your household income of \$1,288.00 was less than the allowable income limit of \$1,809.00, but were ineligible for Medicaid coverage during August 2014 because you had not provided sufficient income documentation.

On May 11, 2015, the Marketplace, again, received several earnings statements issued to you by your employer, [REDACTED], during the months of August and September 2014.

On May 29, 2015, the Marketplace issued a notice stating that you were not eligible for Medicaid coverage during August 2014 since your household income of \$1,952.37 was more than the allowable income limit of \$1,809.00.

On June 8, 2015, you spoke to the Marketplace's Account Review Unit and appealed the May 4, 2015 and May 29, 2015 eligibility determination insofar as you were found ineligible for Medicaid coverage during the month of August 2014.

On August 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) Your relevant application was received on October 6, 2014.
- 2) Based on the October 6, 2014 application, you were found conditionally eligible for Medicaid coverage beginning October 1, 2014, pending the receipt of benefit information from your third party health insurance program.
- 3) You revised your application on November 10, 2014, and stated that you were seeking assistance with paying for medical bills incurred during the previous three months.
- 4) As a result of your revised application submitted on November 25, 2014, you were found fully eligible for Medicaid coverage beginning November 1, 2014.

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- 5) On December 11, 2014, and then again on May 11, 2015, the Marketplace received earning statements reflecting that you received from your employer, [REDACTED]: (1) \$600.00 on August 1, 2014, which was reduced to \$576.00 as result of a pre-tax deduction for enrollment in your employer's insurance plan, (2) \$600.00 on August 8, 2014, which was reduced to \$576.00 as result of a pre-tax deduction for enrollment in your employer's insurance plan, (3) \$642.40 on August 15, 2014, which was reduced to \$609.40 as result of a pre-tax deduction for enrollment in your employer's insurance plan, and (4) \$119.97 on August 22, 2014, which was reduced to \$95.97 as result of a pre-tax deduction for enrollment in your employer's insurance plan, There is no record that you provided an earning statement for August 29, 2014.
- 6) You testified, and your earnings statements reflect, that a portion of your weekly income was subject to a post-tax deduction for support payments you make to your other child's biological mother.
- 7) You were found eligible for Medicaid coverage during September 2014, but ineligible for such coverage during August 2014.
- 8) You testified that you filed your 2014 tax return with a tax-filing status of single and claimed your son, [REDACTED], as your dependent.
- 9) You testified that you would like to be determined eligible for Medicaid coverage during August 2014.

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 2014 FPL, which is \$15,730.00 for a two-person household (79 Fed. Reg. 3593).

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).

The Department of Health must make Medicaid coverage start retroactively for up to three months prior to the month of application if the individual received medical services that would have been covered under Medicaid and the individual would have been eligible for Medicaid at the time he received the services if he had applied (42 CFR § 435.915(a)). The Department of Health may make eligibility effective for fee-for-service Medicaid on the first day of the month if an individual was eligible any time during that month (42 CFR § 435.915(b)).

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)).

Generally, payments made for the support of children are not included in the gross income of the parent receiving the payment (26 USC § 71(c)(1)).

Legal Analysis

The issue under review is whether the Marketplace properly determined that you were ineligible for retroactive Medicaid coverage for the month of August 2014.

You are in a two-person household; you filed your 2014 tax return with a tax filing status of single and claimed your son as your dependent on that tax return.

You were initially found conditionally eligible for Medicaid in the November 27, 2014 eligibility determination notice based on your October 6, 2014 application. On that same date, you were later found fully eligible for Medicaid based on a subsequent application filed on November 25, 2015. Since the initial application

that resulted in a determination of Medicaid eligibility was filed during October 2014, your coverage with Medicaid began October 1, 2014.

You testified that you are seeking to have your Medicaid coverage retroactively applied for the month of August 2014.

Medicaid coverage can be made effective retroactively for up to three months prior to an individual's application if the individual received medical services that would have been covered under Medicaid and if they would have been eligible for Medicaid in those three months had they applied.

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 in August 2014, you would have needed to meet the non-financial criteria and have an income no greater than 138% of the federal poverty level, which is \$1,808.95 per month. There is no indication in the record that you would have been ineligible for Medicaid based on non-financial criteria during August 2014.

You provided four earnings statements received during August 2014 reflecting that your total adjusted gross income during that month, after permissible deductions relating to your employer's health plan, was \$1,857.37. The child support payments cannot further reduce your gross income since these payments are properly included in your modified adjusted gross income for purposes of your eligibility for Medicaid through the Marketplace. Since your income of \$1,857.37 was more than the \$1,808.95 Medicaid limit for August 2014 for a two-person household, you were correctly found to be ineligible for retroactive Medicaid coverage for the month of August 2014.

Decision

The May 5, 2015 and May 29, 2015 eligibility determinations are AFFIRMED, though based on that corrected reasoning that your income of \$1,857.37 was more than the \$1,808.95 Medicaid limit for August 2014 for a two-person household.

Effective Date of this Decision: November 25, 2015

How this Decision Affects Your Eligibility

You remain eligible for Medicaid coverage beginning September 1, 2014, which includes your retroactive eligibility for the month of September 2014.

You are not eligible for retroactive Medicaid coverage for the month of August 2014.

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.

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:
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P.O. Box 11729
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- By fax: 1-855-900-5557

Summary

The May 5, 2015 and May 29, 2015 eligibility determinations are **AFFIRMED**, though based on that corrected reasoning that your income of \$1,857.37 was

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more than the \$1,808.95 Medicaid limit for August 2014 for a two-person household.

You remain eligible for Medicaid coverage beginning September 1, 2014, which includes your retroactive eligibility for the month of September 2014.

You are not eligible for retroactive Medicaid coverage for the month of August 2014.

Legal Authority

We are sending you this notice in accordance with Code of Federal Regulation 45 CFR § 155.545(a).

A Copy of this Decision Has Been Provided To:

