



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

Notice of Decision

Decision Date: October 27, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003399

[REDACTED]

Dear [REDACTED],

On July 23, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's June 10, 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).

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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NY State of Health Number: [REDACTED]
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Issues

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

Did the Marketplace properly determine that you and your spouse remain eligible for Medicaid as of June 10, 2015?

Procedural History

On May 8, 2015, the Marketplace issued an eligibility determination notice stating that you and your spouse are eligible for Medicaid effective as of May 1, 2015.

On June 9, 2015, you updated your Marketplace Application. The Marketplace rendered a preliminary eligibility determination that you and your spouse are eligible for Medicaid.

On that same day you spoke to the Marketplace Account Review Unit and requested an appeal insofar as your eligibility for tax credits and enroll in a qualified health plan.

On June 10, 2015, the Marketplace issued an eligibility determination notice that you and your spouse are no longer eligible for Medicaid. However, your Medicaid coverage will continue until May 31, 2016.

On July 23, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. The record was left open until August 6, 2015, to allow you to submit additional income documentation.

On July 23, 2015, you submitted a two-page document to the Marketplace Appeals Unit. That fax was marked as "Appellant Exhibit A" and entered into the record. The record is now complete and closed.

Findings of Fact

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

- 1) According to your Marketplace application and testimony, you are applying for health insurance through the Marketplace for yourself and your spouse.
- 2) You expect to file your 2015 federal income tax return with the tax status of married filing jointly and claim one dependent on that return.
- 3) According to your May 7, 2015, Marketplace application, your 2015 expected household income is \$15,000.00.
- 4) On May 8, 2015, the Marketplace issued an eligibility determination notice stating that you and your spouse are eligible for Medicaid effective as of May 1, 2015.
- 5) You testified you were employed at [REDACTED] until March 13, 2015 and received your last paycheck at the end of March 2015.
- 6) You testified that you applied for Unemployment Insurance Benefits in March 2015.
- 7) On July 23, 2015, you submitted a [REDACTED] Statement to the Marketplace Appeals Unit. The statement indicates the amount you received in Unemployment Insurance Benefits. You received:
 - (a) \$168.00 on May 18, 2015;
 - (b) \$224.00 on May 18, 2015;
 - (c) \$224.00 on May 18, 2015;
 - (d) \$224.00 on May 18, 2015;
 - (e) \$224.00 on May 19, 2015(Appellant Exhibit A p. 1).
- 8) You testified that your spouse owns his own LLC business.
- 9) You were directed to submit documentation showing your spouse's business income and expenses for the month of May 2015.

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 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 \$20,090.00 for a three-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 by the US Department of Health and Human Services, March 19, 2014).

Most adults determined eligible for Medicaid are guaranteed 12 months of Medicaid coverage, unless the adult loses Medicaid eligibility because of citizenship status, lack of state residence, or failure to provide a valid social security number, before the end of 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 (see 42 CFR § 435.916; N.Y. Soc. Serv. Law § 366(4)(c)).

Advance Premium Tax Credit

An individual who is eligible for Medicaid is not eligible for an advance premium tax credit (APTC) (see 45 CFR § 155.305(f)(1)(ii)(B), 26 CFR § 1.36B-2(c)(2)).

Qualified Health Plan

To obtain health insurance through the Marketplace, an applicant must be a US citizen, national, or lawfully present immigrant who is a New York resident and is not incarcerated (45 CFR 155.305(a)).

The Marketplace “must permit an applicant to request only an eligibility determination for enrollment in a QHP [qualified health plan] through the

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[Marketplace]; however, [it] may not permit an applicant to request an eligibility determination for less than all insurance affordability programs” (45 CFR § 155.310(b)).

Legal Analysis

The issue is whether the Marketplace correctly found you and your spouse eligible for Medicaid based on expected household income of \$15,000.00 for 2015.

You expect to file your 2015 federal income tax return with the tax status of married filing jointly and claim one dependent on that return. Therefore, you have a three-person household for purposes of this decision.

In the application that was submitted on May 7, 2015, you attested to an expected yearly income of \$15,000.00, and the eligibility determination relied upon that information. Based on your May 7, 2015, Marketplace application, your expected annual income for 2015 is \$15,000.00, which is 74.66% of the 2015 federal poverty level (FPL). At 74.66% of the FPL, your household income is below the threshold of 138% of the FPL for Medicaid with an allowable income limit of \$27,725.00.

On June 9, 2015, you reapplied for health insurance through the Marketplace. Based on an annual household income of \$33,000.00, you and your spouse were determined eligible for Medicaid based on continuous coverage.

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

Therefore, once the Marketplace properly determined that you and your spouse were eligible for Medicaid, they were properly found to remain covered under Medicaid during 2015, as stated in the June 10, 2015 notice of eligibility determination.

You testified that the annual household income entered in your Marketplace account on May 7, 2015 does not accurately represent your 2015 income. You were directed to provide income documentation demonstrating your May 2015 income. On July 23, 2015, you submitted a [REDACTED] stating showing that you received \$1,064.00 in Unemployment Insurance Benefits in May 2015. You were directed to provide a statement of your spouse’s business income and expenses. This documentation was not provided. At this time you did not provide sufficient testimony or documents to return your case to Marketplace to recalculate you benefits on a yearly or monthly basis.

Since the June 10, 2015, eligibility determination properly states that you and your spouse remain eligible for Medicaid, it is correct and is AFFIRMED.

You indicated that you would like to continue to be enrolled a qualified health plan (QHP) during 2015. However, when you are Medicaid eligible, you are not eligible for an advance premium tax credit or cost-sharing reductions.

If you do not want to receive Medicaid coverage during 2015 and would prefer to purchase a QHP at full cost, you qualify to purchase an unsubsidized health insurance plan through the Marketplace. If you select and enroll in a full-pay QHP, you will be responsible for the full cost of the monthly premiums and all out-of-pocket costs.

Decision

The June 10, 2015, eligibility determination is AFFIRMED.

Effective Date of this Decision: October 27, 2015

How this Decision Affects Your Eligibility

Your eligibility has not changed.

You and your spouse's insurance coverage through Medicaid, effective May 1, 2015, remains in effect.

If you no longer wish to have Medicaid coverage, you qualify to purchase unsubsidized health insurance through the Marketplace. If you select and enroll in a full-pay qualified health plan, you will be responsible for the full cost of the monthly premiums and all out-of-pocket costs.

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

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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:

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NY State of Health Appeals
P.O. Box 11729
Albany, NY 12211
- By fax: 1-855-900-5557

Summary

The June 10, 2015, eligibility determination is AFFIRMED.

You and your spouse's insurance coverage through Medicaid, effective May 1, 2015, remains in effect.

If you no longer wish to have Medicaid coverage, you qualify to purchase unsubsidized health insurance through the Marketplace. If you select and enroll in a full-pay qualified health plan, you will be responsible for the full cost of the monthly premiums and all out-of-pocket costs.

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:

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