



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

Notice of Decision

Decision Date: October 28, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003419

[REDACTED]

Dear [REDACTED],

On September 23, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's May 3, 2015 eligibility redetermination.

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 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

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NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003419

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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 on May 3, 2015 that you were not eligible for Medicaid coverage through the Marketplace?

Procedural History

On May 3, 2015, based on your April 30, 2015 application, the Marketplace issued a notice of eligibility determination that you are not eligible to receive help to pay for health coverage or to enroll in a qualified health plan at full cost through NY State of Health. The reason given is that, based on federal and state data sources, you are already enrolled in or eligible for public insurance program such as Medicare.

On June 10, 2015, you spoke with a representative from the Marketplace's Account Review Unit and appealed the eligibility determination insofar as you wanted help paying for medical bills that you incurred during the previous three months.

According to your August 26, 2015 written request for an adjournment, your telephone conversation with a Hearing Officer from the Marketplace's Appeals Unit that same day, and the August 31, 2015 notice of telephone hearing, the Marketplace adjourned your scheduled hearing for August 26, 2015 to September 23, 2015.

On September 23, 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.

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Findings of Fact

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

- 1) According to your Marketplace account, you are divorced and expect to file your 2015 federal tax return using the tax filing status of Single. You indicated that will not be claiming any dependents on that tax return.
- 2) According to your Marketplace application, your birth date is [REDACTED], and you were 62 years old at the time of your April 30, 2015 application.
- 3) According to your Marketplace account and your testimony at hearing, you have active Medicare coverage, which began December 1, 2007.
- 4) According to your April 30, 2015 Marketplace application, you listed an annual household income of \$18,442.80 from Title II Social Security Disability benefits.
- 5) You also listed several adjustments to your annual household income on your Marketplace application, which you testified consisted of \$104.90 monthly for your Medicare premium that is withheld from your benefits; \$1,375.18 in medical-related bills you incurred during February 2015 related to a fall you had that month; and another monthly amount of \$35.00, which was not identified.
- 6) You also testified that you incurred annual expenses of \$420.00, which equals the unidentified monthly amount of \$35.00 times 12 months, and another medical bill in March 2015 for \$300.00.
- 7) Excluding your monthly Medicare premium amount of \$104.90 and the total monthly expenses for an unidentified expense of \$420.00, the total of the medical bills you incurred in February and March 2015 appears to be \$1,675.18
- 8) You testified that you are seeking retroactive Medicaid coverage for the months of February and March 2015, to cover the balance of your medical bills not covered by Medicare.
- 9) You testified that you did not attempt to apply for supplemental Medicaid through the local Human Resources Office in Kings County, New York because you thought you could do so through the Marketplace.
- 10) At the time of your April 30, 2015, you resided in Kings County, New York.
- 11) You testified at the hearing that you moved out-of-state to Pennsylvania and your current address is now:

[REDACTED]

[REDACTED]

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 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)).

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).

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 April 30, 2015 application, that was the 2015 FPL, which is \$11,770.00 for a one-person household (80 Fed. Reg. 3236, 3237).

The maximum allowable income limit for Medicaid at 138% of the applicable FPL of \$11,770.00 in 2015 is \$16,243.00 annually, or \$1354.00 monthly.

With regard to retroactive Medicaid for 2015, the applicable FPL was also \$11,770.00 for a one-person household (80 Fed. Reg. 3236, 3237).

If an applicant for health insurance is determined Medicaid eligible, coverage will begin on the first day of the first month that the applicant was determined eligible (18 NYCRR § 360-2.4(c)). The applicant may be determined retroactively eligible for coverage for up to three months prior to their application, if they would have been eligible for Medicaid during the month when medical care or services were received (*Id.*).

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

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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)). Living expenses, such as health insurance premiums and medical expenses are not an allowable deduction in computing adjusted gross income.

Legal Analysis

The issue under review is whether the Marketplace properly determined that you were not eligible for Medicaid because you had public health coverage through Medicare.

Initially, Medicaid can be provided through the Marketplace to adults between the ages of 19 and 65 who meet the non-financial requirements. One such requirement is that you are not eligible for Medicare benefits. On the date of your application, the Marketplace confirmed that you had Medicare benefits as of December 1, 2007 and your coverage was active based on federal and state data sources as of the date of your application on April 30, 2015. You testified that this information was correct and that Medicare had covered up to a certain percentage of your hospitalization and medical expenses related to your February 2015 fall. However, you have a balance of approximately \$1675.18 for hospital and medical expenses from February and March 2015 for which you were seeking retroactive Medicaid to help pay.

In order to be considered eligible for retroactive Medicaid, an individual must first be determined Medicaid eligible in the month of their application. As stated above, since you had active Medicare coverage in April 2015, you were not eligible Medicaid that month and, therefore, could not qualify for retroactive Medicaid for the three months prior to your application.

Therefore, the May 3, 2015 notice of eligibility determination is correct and is **AFFIRMED**.

Notwithstanding, you testified that you still want to be determined eligible for retroactive Medicaid to supplement your Medicare benefits for February and March 2015 so that the outstanding hospital and medical bills you incurred in February and March 2015 can be covered.

The Marketplace does not have the authority to decide if you qualify for non-MAGI-based Medicaid.

For more information about non-MAGI eligibility requirements for Medicaid, you can contact the New York City Human Resources Administration. A listing of offices can be found at www.nyc.gov/html/hra/html/home/home.shtm

Decision

The May 3, 2015 notice of eligibility determination is AFFIRMED.

Effective Date of this Decision: October 28, 2015

How this Decision Affects Your Eligibility

You were ineligible for Medicaid coverage through the Marketplace as of April 1, 2015 because you were receiving Medicare benefits since December 1, 2007 and, therefore, were ineligible for retroactive Medicaid for the three months prior to the month of your application, dated April 30, 2015.

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):

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Summary

The May 3, 2015 notice of eligibility determination is AFFIRMED.

You were ineligible for Medicaid coverage through the Marketplace as of April 1, 2015 because you were receiving Medicare benefits since December 1, 2007 and, therefore, were ineligible for retroactive Medicaid for the three months prior to the month of your application, dated April 30, 2015.

For more information about non-MAGI eligibility requirements for Medicaid, you can contact the New York City Human Resources Administration. A listing of offices can be found at www.nyc.gov/html/hra/html/home/home.shtm

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:

