



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

## Notice of Decision

Decision Date: January 15, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003757

[REDACTED]

Dear [REDACTED],

On September 17, 2015, you and your spouse appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's April 28, 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 and the NY State of Health number at the top of this notice.

### Legal Authority

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

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## Decision

Decision Date: January 15, 2016

NY State of Health Number: [REDACTED]  
Appeal Identification Number: AP000000003757

[REDACTED]

## Issue

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

Did the Marketplace properly determine that your spouse was eligible for Medicaid, effective April 1, 2015?

Was your spouse improperly disenrolled from her qualified health plan?

## Procedural History

On December 9, 2014, the Marketplace issued a notice confirming re-enrollment for you and your spouse in your qualified health plan (QHP) for the upcoming year, with a premium responsibility of \$356.01 per month.

On April 27, 2015, the Marketplace received four applications from you, in which you attested to a range of annual household ranging from \$75,000.00 in the first application submitted that day, to \$91,185.00 in the last. You also attested in each of these applications that your spouse was pregnant with one child.

In response to the first application submitted on April 27, 2015, the Marketplace prepared a preliminary determination in which it found that your spouse, who was pregnant with one child, was eligible for Medicaid.

On April 28, 2015, the Marketplace issued a notice of eligibility determination based on the information contained on your final April 27, 2015 application. It stated that you, [REDACTED], were eligible to receive \$0.00 per month in APTC and

ineligible for CSR and Medicaid, effective June 1, 2015. The notice also stated that your spouse remained eligible for Medicaid, effective April 1, 2015.

Also on April 28, 2015, the Marketplace received two further revised applications in which you attested to annual household incomes of \$91,185.00 and \$91,200.00. In the first, you stated that your spouse was pregnant with one child; in the second, which was submitted less than ten minutes after the first, you attested that she was not pregnant at all.

On April 29, 2015, the Marketplace issued an eligibility redetermination notice based on the information contained in your final April 28, 2015 application. It stated that both you and your spouse were eligible to receive an APTC of up to \$123.00 per month, ineligible for CSR, and ineligible for Medicaid. This eligibility determination was effective June 1, 2015.

Also on April 29, 2015, the Marketplace issued a disenrollment notice confirming that your spouse's coverage under Medicaid fee-for-service coverage would terminate effective May 31, 2015.

On May 15, 2015, the Marketplace received a revised application in which you attested to an annual household income of \$91,200.00. This application also indicated that your spouse gave birth to your youngest child on [REDACTED].

On May 16, 2015, the Marketplace issued an eligibility redetermination stating that you and your spouse were eligible for an APTC of up to \$190.00 per month; eligible for CSR, provided you selected a silver-level plan; and ineligible for Medicaid, effective June 1, 2015. It also stated that your baby was eligible for Medicaid, effective May 1, 2015.

On July 2, 2015, you spoke with the Marketplace's Account Review Unit and appealed the April 28, 2015 determination insofar as your spouse had been found eligible for Medicaid.

On September 17, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. Your spouse, [REDACTED], and your broker, [REDACTED], also attended the hearing as witnesses. 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 live with your spouse and six children.
- 2) The youngest of your children was born on [REDACTED].

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- 3) You submitted multiple applications on April 27, 2015 in which you attested to a range of incomes between \$75,000.00 and \$91,185.00 and that your spouse was pregnant with one child. You testified that your income varies from month to month, so your expected annual income is difficult to anticipate, but at that time it was likely to be approximately \$100,000.00.
- 4) In an eligibility determination issued on April 28, 2015, your spouse was found eligible for Medicaid, effective April 1, 2015. Prior to your spouse being found eligible for Medicaid, she was enrolled in a qualified health plan between January 1, 2015 and March 31, 2015.
- 5) You testified that when your spouse was enrolled in Medicaid between April 1, 2015 and May 31, 2015, she incurred several medical bills in connection with the birth of your child that was not covered by her health insurance because the doctor did not accept Medicaid.
- 6) On April 28, 2015, your application was altered to increase your household \$91,200.00 and to show that your spouse was not pregnant.
- 7) On April 29, 2015, the Marketplace found you and your spouse eligible for an advance premium tax credit (APTC) of up to \$123.00 per month, ineligible for cost-sharing reductions (CSR), and ineligible for Medicaid, based on the last application submitted on April 28, 2015.
- 8) You testified that you were seeking to have your spouse's Medicaid determination eliminated and to reinstate her enrollment in her prior qualified health plan for the period between April 1, 2015 and May 31, 2015.

Conflicting evidence, if any, was considered and found to be less credible than the evidence noted above.

## **Applicable Law and Regulations**

### Household Composition

For purposes of advance premium tax credit (APTC) and cost-sharing reductions (CSR), household size equals the number of individuals for whom the taxpayer is allowed a deduction under 26 USC § 151 for the taxable year, which typically includes: (1) the taxpayer, (2) his or her spouse, and (3) any claimed dependents (26 USC § 36B(d)(1)).

For purposes of Medicaid eligibility, however, the household size of either a pregnant woman or a person who is in the family of a pregnant woman includes not only the pregnant woman, but also the number of children she expects to deliver (42 CFR § 435.603(b); State Plan Amendment (SPA) 13-0055-MM3, as approved by the US Department of Health and Human Services, March 19, 2014).

## 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)).

In New York, a pregnant woman is eligible for Medicaid at a household income of 223% of the FPL (42 CFR § 435.116 (c)(2); NY Department of Social Services Admin Directive 13 ADM-03).

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 \$40,890.00 for an eight-person household (80 Fed. Reg. 3236, 3237).

## **Legal Analysis**

The issue raised on appeal is whether the Marketplace properly determined that your spouse was eligible for Medicaid, effective April 1, 2015.

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.

When calculating family size for Medicaid purposes, the household size of either a pregnant woman or a person who is in the family of a pregnant woman includes not only the pregnant woman but also the number of children she expects to deliver. On the date of your Marketplace April 27, 2015 application, your wife was pregnant. Accordingly, the Marketplace correctly determined your spouse's eligibility using an eight-person household, and would be eligible for Medicaid on a MAGI that is at or below 223% of the FPL for the applicable family size.

The record reflects that you submitted several applications on April 27, 2015 in which you attested to a range of incomes between \$75,000.00 and \$91,185.00.

You testified during the hearing that your expected annual income fluctuates during the year based on the income you have received during at any given time during the year. You testified that your expected annual income is now over \$100,000.00. However, since you attested to such wide range of incomes within several application submitted on the same date, and a day later submitted two applications containing contradictory attestations regarding your spouse's pregnancy, we do not find your testimony credible.

The final application you submitted on April 27, 2015 reflected an annual household income of \$91,185.00 and the eligibility determination relied upon that information.

On the date of your application, the relevant FPL was \$40,890.00 for an eight-person household. Since \$91,185.00 is 223.00% of the 2015 FPL, the Marketplace properly found your spouse to be eligible for Medicaid on an expected annual income basis, using the information provided in your application.

Since the April 28, 2015 eligibility determination properly stated that you were eligible for Medicaid, effective April 1, 2015, it is correct and is AFFIRMED.

## **Decision**

The April 28, 2015 eligibility determination notice is AFFIRMED.

**Effective Date of this Decision:** January 15, 2016

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

Your spouse remains eligible for Medicaid coverage between April 1, 2015 and May 31, 2015.

This Decision has no effect on any subsequent eligibility determination notice issued on or after April 28, 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):**

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

## **Summary**

The April 28, 2015 eligibility determination notice is AFFIRMED.

Your spouse remains eligible for Medicaid coverage between April 1, 2015 and May 31, 2015.

This Decision has no effect on any subsequent eligibility determination notice issued on or after April 28, 2015.

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## **Legal Authority**

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**A Copy of this Decision Has Been Provided To:**

