



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

Notice of Decision

Decision Date: November 09, 2015

NY State of Health Number: [REDACTED]
Appeal Identification Number: AP000000003977

[REDACTED]

Dear [REDACTED]

On September 30, 2015, you appeared by telephone at a hearing on your appeal of NY State of Health Marketplace's July 22, 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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Issue

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

Did the Marketplace properly determine that you, your youngest daughter and son were not eligible for Medicaid as of July 22, 2015?

Procedural History

On July 21, 2015, you updated your Marketplace account.

On July 22, 2015, the Marketplace issued an eligibility determination notice stating that you and your youngest daughter were eligible to receive up to \$361.00 monthly of advance premium tax credits and eligible to receive cost-sharing reductions, if you select a silver-level qualified health plan. Your son was determined eligible to enroll through Child Health Plus with a \$9.00 premium per month. The notice found each of you not eligible for Medicaid because the household income you provided was over the allowable income limit for that program.

On the same day, you spoke to the Marketplace's Account Review Unit and requested an appeal relative to the amount of financial assistance you were determined eligible to receive.

On September 30, 2015, you had a telephone hearing with a Hearing Officer from the Marketplace's Appeals Unit. Testimony was taken during the hearing and the record was held open until October 2, 2015 for you to submit additional income documentation.

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On October 1, 2015 the Marketplace Appeals Unit received a four-page fax from you that consisted of a cover page and two paystubs from your employment. That same day, your four-page fax was made part of the record as "[REDACTED]" and the record was closed.

Findings of Fact

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

1. According to your July 21, 2015 application, the Marketplace calculated your eligibility for financial assistance based on a 2015 annual household income of \$33,785.49.
2. You plan on filing a 2015 federal income tax return with the tax status of Head of Household (with qualifying individual) and will claim two dependents on that return. You plan on claiming your 19-year-old daughter (youngest daughter) and 14-year-old son (son) as dependents.
3. You testified that you receive \$1,086.00 monthly in Social Security Benefits.
4. You testified that you were employed at the [REDACTED] until July 17, 2015.
5. On October 1, 2015, you faxed two biweekly paystubs from your employment at [REDACTED]. The paystub dated July 10, 2015 shows gross earnings of \$447.60 and the paystub dated July 24, 2015 shows gross earnings of \$459.00 (Appellant's Exhibit A p. 3).
6. According to your July 21, 2015 application, your youngest daughter is a full-time student, resides with you and has a 2015 expected income of \$0.00.
7. According to your application, your fourteen-year-old son expects to receive \$13,032.00 (\$1,086.00 X 12) in income from Social Security benefits during 2015.
8. You are appealing the financial assistance that your household was determined eligible to receive.
9. You reside in Orleans County, New York.

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

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Applicable Law and Regulations

Modified Adjusted Gross Income

The Marketplace bases its eligibility determinations on modified adjusted gross income (MAGI) as defined in the federal tax code (45 CFR § 155.300(a), 42 CFR § 603(e), see 26 USC § 36B(d)(2)(B)).

For the purposes of determining a person's eligibility for financial assistance for health insurance through the Marketplace, 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 savings accounts, and deductions attributable to royalties (26 USC § 62(a)).

"Gross income" is defined as all income from whatever source it is derived from; however, notwithstanding the apparent overall inclusiveness of this definition, there are numerous items that are specifically excluded from gross income (26 USC § 61).

An individual's Social Security benefits are included in gross income only to the extent that the sum of the person's IRS-defined "modified adjusted gross income" plus one-half of their Social Security benefits is greater than \$25,000.00 (26 USC § 86(a)(1), (b)(1)), (c)(1)(A)).

Household Income

A tax filer's MAGI household income includes the MAGI-based income of all the individuals in the taxpayer's household who are required to file a federal tax return for the taxable year (26 CFR § 1.36B-1(e)(1); 42 CFR § 435.603(d)(1)). The MAGI-based income of a child who is not required to file a tax return is not included in household income (42 CFR § 435.603(d)(2)).

A person is not required to file a tax return if their gross income is less than the sum of the exemption amount plus the basic standard deduction allowable for that person (26 USC § 6012(1)(A)). For the 2015 year, a dependent who has yearly gross earned income greater than \$6,300.00 or gross unearned income greater than \$1,050.00 will be required to file a tax return (see IRS Revenue Procedure 2014-61).

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“Unearned income” is generally all income other than salaries, wages and other amounts received as pay for work actually performed, including the *taxable* part of social security and pension payments (IRS Publication 929, p. 15; emphasis added).

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 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)).

A child who is at least one year of age but younger than nineteen is eligible for Medicaid if his or her household's modified adjusted gross income falls at or below 154% of the FPL (N.Y. Soc. Serv. Law § 366(1)(b)(3), New York State Department of Health 13 OHIP/ADM-03)).

For children ages 19 and 20, whose primary residence is with their parents, the applicable household income is 155% of the 2015 FPL, or \$36,967.00 (N.Y. Soc. Serv. Law § 366(1)(b)(7), New York State Department of Health 13 OHIP/ADM-03)).

In an analysis of Medicaid eligibility, the determination is based on the federal poverty level (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).

Legal Analysis

Of the eligibility requirements listed above, the only one at issue is the amount of household income the Marketplace should consider when calculating your family's eligibility for financial assistance.

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The July 21, 2015 eligibility determination used a household income of \$33,785.49 to determine your household's eligibility for financial assistance. According to your application, this amount included the \$13,032.00 in Social Security Benefits you expected to receive in 2015, the \$7,721.49 you expected to receive in earned income, and the \$13,032.00 in Social Security Benefits your son expected to receive in 2015.

Generally, the household income for the purposes of calculating a person's eligibility for financial assistance through the Marketplace consists of the sum of income of every individual included in the individual's household. However, the income of an individual who is included in the household of their natural, adopted or step parent and is not expected to be required to file a tax return for the taxable year in which eligibility for Medicaid is being determined, is not included in household income whether or not the individual files a return.

You testified that you will be filing your 2015 tax return with the tax status of Head of Household (with qualifying individual) and will claim two dependents on that return.

A dependent is required to file a tax return when their unearned income is greater than \$1,050.00. Unearned income includes the taxable portion of Social Security benefits.

To determine if any portion of a person's Social Security benefit is taxable, the IRS adds one-half of a person's income from Social Security to any other income that person receives and then subtracts that amount from \$25,000.00. Any excess amount is considered taxable income.

At the time of your application, your fourteen-year-old child expected to receive \$13,032.00 ($\$1,086.00 \times 12$) in income from Social Security benefits. One-half the amount of Social Security he receives (\$6,516.00) is less than \$25,000.00. Therefore, your fourteen-year-old child has no taxable income from Social Security and is not required to file a tax return in 2015 on the basis of his unearned income.

Since your fourteen-year-old is not required to file a tax return based on his income, the amount of income they receive from Social Security benefits should not have been added back into the household's income for the purposes of determining the household's eligibility for financial assistance to help pay for the costs of health insurance.

Therefore, the July 22, 2015 eligibility determination notice that lists a household income of \$33,785.49 is **RESCINDED**.

Based on the credible evidence in the record, you expect to receive \$1,086.00 per month in Social Security Benefits. You received \$906.60 from the [REDACTED]

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██████████ in July 2015. Financial eligibility for Medicaid for applicants who are not currently receiving Medicaid benefits is based on current monthly household income and family size.

Therefore, your case is RETURNED to the Marketplace of your household's eligibility for financial assistance based on a three-person household with a July 2015 household income of \$1,992.60.

Decision

The July 22, 2015 eligibility determination is RESCINDED.

Your case is RETURNED to the Marketplace for a redetermination of your household's eligibility for financial assistance based on a three-person household with a July 2015 household income of \$1,992.60.

Effective Date of this Decision: November 09, 2015

How this Decision Affects Your Eligibility

This decision is not a final determination of your eligibility.

Your case is being sent back to the Marketplace for a redetermination of your household's eligibility for financial assistance based on a three-person household with a July 2015 household income of \$1,992.60.

Once a redetermination has been made, the Marketplace will issue you a redetermination notice which will contain further information.

This decision has no effect on any determination made subsequent to July 22, 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.

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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 July 22, 2015 eligibility determination is RESCINDED.

Your case is RETURNED to the Marketplace for a redetermination of your household's eligibility for financial assistance based on a three-person household with a July 2015 household income of \$1,992.60.

This decision is not a final determination of your eligibility.

Your case is being sent back to the Marketplace for a redetermination of your household's eligibility for financial assistance based on a three-person household with a July 2015 household income of \$1,992.60.

Once a redetermination has been made, the Marketplace will issue you a redetermination notice which will contain further information.

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Once a redetermination has been made, the Marketplace will issue you a redetermination notice which will contain further information.

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:

